

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS  
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Public Works	(2) MEETING DATE February 28, 2006	(3) CONTACT/PHONE Paavo Ogren, Deputy Director of Public Works (805) 781-5291	
(4) SUBJECT Approval of Resolutions of the San Luis Obispo County Flood Control and Water Conservation District to Initiate Annexation Proceedings for Zone 1, to Adopt an Amendment to the 1959 Agreement Governing the Maintenance of the Arroyo Grande and Los Berros Creek Levees, and Other Related Actions			
(5) SUMMARY OF REQUEST Consistent with Board action on June 14 and 28, 2005, the report and resolutions have been prepared in developing a Local Solution for maintenance of the Zone 1 and 1A flood control levees.			
(6) RECOMMENDED ACTION That your Honorable Board considers the attached report entitled "Policy Considerations regarding Maintenance of the Arroyo Grande and Los Berros Creek Levees" and: 1. Adopt the attached resolution entitled "Resolution of Intention of the San Luis Obispo County Flood Control and Water Conservation District to Annex Certain Parcels in the County of San Luis Obispo to Flood Control Zone 1." 2. That the Clerk of the Board is directed to publish notice of said hearing to the property owners in the proposed annexation area in accordance with section 6066 of the California Government code. 3. Adopt the attached resolution entitled "Approval of Findings, Policies and Staff Direction on the Subject of Relinquishing the Arroyo Grande and Los Berros Creek Levees to the California Department of Water Resources, including a contract amendment with the Natural Resource Conservation Service and the Coastal San Luis Resource Conservation District."			
(7) FUNDING SOURCE(S) B.U. #'s 13005 & 13010	(8) CURRENT YEAR COST \$67,825	(9) ANNUAL COST \$420,000	(10) BUDGETED? <input checked="" type="checkbox"/> YES <input type="checkbox"/> N/A <input type="checkbox"/> NO
(11) OTHER AGENCY/ADVISORY GROUP INVOLVEMENT (LIST): Zone 1 & 1A Advisory Committee, Community Coalition with representatives of the RCD, the NRCS, County Counsel, County Risk Management, County General Services, South San Luis Obispo County Sanitation District, the State of California, numerous State and Federal agencies are involved in environmental review and permitting.			
(12) WILL REQUEST REQUIRE ADDITIONAL STAFF? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes, How Many? _____ <input type="checkbox"/> Permanent _____ <input type="checkbox"/> Limited Term _____ <input type="checkbox"/> Contract _____ <input type="checkbox"/> Temporary Help _____			
(13) SUPERVISOR DISTRICT(S) 3rd and 4th		(14) LOCATION MAP <input checked="" type="checkbox"/> Attached <input type="checkbox"/> N/A	
(15) AGENDA PLACEMENT <input type="checkbox"/> Consent <input type="checkbox"/> Hearing (Time Est. _____) <input type="checkbox"/> Presentation <input checked="" type="checkbox"/> Board Business (Time Est. <u>15 min.</u> )		(16) EXECUTED DOCUMENTS <input checked="" type="checkbox"/> Resolutions (Orig + 4 copies) <input checked="" type="checkbox"/> Contracts (Orig + 4 copies) <input type="checkbox"/> Ordinances (Orig + 4 copies) <input type="checkbox"/> N/A	
(17) NEED EXTRA EXECUTED COPIES? <input checked="" type="checkbox"/> Number: <u>2</u> <input type="checkbox"/> Attached <input type="checkbox"/> N/A		(18) APPROPRIATION TRANSFER REQUIRED? <input type="checkbox"/> Submitted <input type="checkbox"/> 4/5th's Vote Required <input checked="" type="checkbox"/> N/A	

Reference: 06FEB28-C-9

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(19) ADMINISTRATIVE OFFICE REVIEW	OK Leslie Brown <div style="position: absolute; right: 0; bottom: 0; font-size: 2em; transform: rotate(-15deg);">           D-1 (2-28-06)         </div>
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# SAN LUIS OBISPO COUNTY DEPARTMENT OF PUBLIC WORKS

Noel King, Director

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email address: [pwd@co.slo.ca.us](mailto:pwd@co.slo.ca.us)

**TO:** Board of Supervisors

**FROM:** Paavo Ogren, Deputy Director of Public Works *PO*

**VIA:** Noel King, Director of Public Works *NK*

**DATE:** February 28, 2006

**SUBJECT:** Approval of Resolutions of the San Luis Obispo County Flood Control and Water Conservation District to Initiate Annexation Proceedings for Zone 1, to Adopt an Amendment to the 1959 Agreement Governing the Maintenance of the Arroyo Grande and Los Berros Creek Levees, and Other Related Actions

## Recommendation

That your Honorable Board considers the attached report entitled "Policy Considerations regarding Maintenance of the Arroyo Grande and Los Berros Creek Levees" and:

1. Adopt the attached resolution entitled "Resolution of Intention of the San Luis Obispo County Flood Control and Water Conservation District to Annex Certain Parcels in the County of San Luis Obispo to Flood Control Zone 1."
2. That the Clerk of the Board is directed to publish notice of said hearing to the property owners in the proposed annexation area in accordance with section 6066 of the California Government code.
3. Adopt the attached resolution entitled "Approval of Findings, Policies and Staff Direction on the Subject of Relinquishing the Arroyo Grande and Los Berros Creek Levees to the California Department of Water Resources, including a contract amendment with the Natural Resources Conservation Service and the Coastal San Luis Resource Conservation District."

## Discussion

On June 14, 2005, your Board considered a status report on the relinquishment of maintenance responsibilities for the Arroyo Grande and Los Berros Creek Levees (Structures) from Flood Control Zones 1&1A to the California Department of Water Resources (DWR). The relinquishment was proceeding as a result of your Board Resolution 2003-105 adopted on

*D-1-2*

April 1, 2003, and DWR was ready to initiate maintenance efforts beginning in July 2005. They also expressed the willingness to delay their efforts for one year, if requested by your Board.

At your June 14<sup>th</sup> hearing, a petition signed by 756 individuals was presented to your Board by Tony Ferrara<sup>1</sup> requesting that you delay the pending transfer to DWR for one year. As stated in the petition (Petition),

*"This time will be used by our community coalition to develop an alternative solution for the management of the Arroyo Grande Creek Flood Control Zones 1 and 1A."*

In that Petition, the community coalition (Community Coalition) also established the following goals (Community Goals):

- *"Develop a viable Flood Protection and Stormwater Management Plan that will reduce the current high liability potential.*
- *Develop a local management structure for long-term implementation of the Plan.*
- *Develop a financial strategy for implementing the Plan that will also minimize financial hardship on property owners.*
- *Maintain a community coalition through education, outreach and involvement."*

In addition to the Petition, verbal testimony was made by numerous individuals including staff and representatives of the Federal Natural Resources Conservation Service (NRCS) and the Coastal San Luis Resource Conservation District (RCD), property owners and residents of Zone 1 and 1A, and representatives of other affected agencies and responsible organizations. At the conclusion of your hearing on June 14<sup>th</sup>, your Board supported the Community Coalition's Petition, and the testimonies of NRCS and RCD representatives, property owners, residents, and others to delay the relinquishment until July 1, 2006. Together with other actions, your Board also directed staff to work in support of the Community Goals.

On June 28, 2005 your Board formally approved Resolution 2005-183 deferring the relinquishment of the Structures to DWR until July 1, 2006. Along with that June 28<sup>th</sup> resolution, staff provided two exhibits in your Board agenda item, which are now included in this agenda item as Attachments "A" and "B". Consistent with your Board direction to staff, the attachments were prepared in support of the Community Goals by summarizing items that should be required or considered so that a local solution (Local Solution) can meet existing needs better than the DWR alternative.

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<sup>1</sup> Mayor of City of Arroyo Grande and Board member of South San Luis Obispo County Sanitation District

## Status of Community Goals / Results of Recent Efforts

The pursuit of the Community Goals has resulted in several significant accomplishments. The staff and representatives of the NRCS and RCD have worked closely and productively with your Board's Zone 1/1A Advisory Committee (Committee) and its Task Force on behalf of the Community Coalition. Additional details associated with those efforts are discussed in the attached report entitled "Policy Considerations for Maintenance of the Arroyo Grande Levees" that has been prepared by staff for your Board. The following is a summary of recent significant accomplishments that have resulted from their pursuit of Community Goals.

- Under the direction of the Coastal San Luis Resource Conservation District (RCD), Swanson Hydrology and Geomorphology (Swanson) prepared a final report entitled "Arroyo Grande Creek Erosion, Sedimentation and Flooding Alternatives Study", dated January 4, 2006 (Swanson Study).
- The RCD has directed Swanson to evaluate alternative multi-year maintenance scenarios assuming different funding levels as the "next step" in working on a long term implementation plan.
- On November 8, 2005, a status report was provided to your Board. At that time, the Swanson Alternative #3C was cited as the tentative preferable alternative by Linda Chipping.<sup>2</sup> In addition, conceptual discussion of the development of a Memorandum of Understanding (MOU) between various affected agencies and responsible organization was presented to your Board in support of developing greater inter-agency coordination on watershed programs.
- Since your November 8, 2005 hearing, the Committee modified their preferable alternative from Swanson Alternative #3C to Swanson Alternative #3A. The change was made to better reflect the level of service that the Committee believes is appropriate and consistent with their desire and ability to fund the program through an increase in property related assessments for Zones 1 & 1A.
- A draft assessment engineer's report required by the California State Constitution Article XIII(D), and based on technical evaluations in the Swanson Study, was prepared by Cannon Associates including the Committee's recommended increase in annual property assessments of \$350,000. The report also identifies parcels that are recommended to annex to Zone 1 based on the assessment engineer's evaluation of the special benefits that result from maintaining the Structures.

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<sup>2</sup> President, Board of Directors, Coastal San Luis Resources Conservation District

- Preparation of a detailed schedule of actions that must be completed prior to June 30, 2006; including the following critical items:
  1. Annex benefiting parcels to Zone 1.
  2. Conduct a vote of property owners within Zones 1 & 1A to determine whether they will authorize your Board to increase property assessments for maintaining the Structures.
  3. Conduct a hearing of your Board to determine whether the relinquishment will proceed or be abandoned.

The schedule is attached as Attachment "C".

In summary, staff believes that the Committee, its Task Force, the NRCS and RCD have made significant progress in pursuing the Community Goals. Notably, their education and outreach efforts, the Swanson Study, and their recommended funding levels provide important and significant strides towards a Local Solution.

Staffs' support of their efforts has primarily revolved around administrative and legislative requirements. Staff has also attempted to identify areas where they have made progress in developing a viable local solution as well as areas where more work needs to be accomplished. Overall, staff is recommending that your Board adopt the attached resolutions so that the development of a Local Solution as an alternative to the DWR relinquishment can continue even while more work is known to exist.

#### Long Term Viability of the Structures / Future Efforts for a Local Solution

In addition to the success of recent efforts, other work will be needed so that a Local Solution can assure the long-term viability of the Structures. Future efforts will need to include the following:

- Environmental review and permits.

Section 4(a) of the attached report provides a summary of the environmental review and permitting requirements for long-term maintenance of the Structures. While the alternatives identified in the Swanson Study provide useful information for environmental related efforts, it is important to note that applying for and obtaining required environmental permits will substantially determine the detailed timing and nature of maintenance activities that are allowable under federal and state environmental laws and regulations. It is not possible to obtain all the environmental permits that are needed for the long-term maintenance efforts before July 1, 2006, nor should it be expected from the proponents of the Local Solution.

- Improving the Structures

The Swanson Study identifies improvements to the Structures that are needed to restore capacity, and other watershed programs and projects needed to reduce ongoing sedimentation, which are additional to the maintenance obligation of the District and the funding required of property owners under the 1959 Agreement. Discussions with representatives of Federal and State legislators have already occurred to identify the need for grant funds. Bond measures currently being reviewed in the State legislature could potentially provide future grants.

- Memorandum of Understanding

Developing the MOU recommended by the Committee and presented to your Board on November 8, 2005 should begin once their current efforts relating to the assessment vote are complete. The MOU will help to address the watershed issues outside of the direct contractual obligation of the District and Zone 1/1A property owners obligation to fund. Since resolving the larger watershed issues is not possible by July 1, 2006, development of the MOU subsequent to that date is appropriate considering the other priorities that exist at this time. Goals and objectives for fiscal year 2006-07, identified in Section 4(b) of the attached report include the development of the MOU. The purpose of the MOU should include the objectives of developing standards for new development, improved controls of storm water run-off and sediment reduction through enacting appropriate measures by the County, affected cities and agencies, and led by the Committee, RCD and NRCS.

- Legislative Platform / Contract Amendments

On February 7, 2006 your Board approved a legislative platform including items directly relating to the Zone 1 & 1A maintenance issues. In addition to legislation that is needed to align those federal and state laws passed after execution of the 1959 Agreement, with roles and responsibilities established in the 1959 Agreement, a contract amendment to the 1959 Agreement is similarly needed.

#### 1959 Agreement between District, NRCS, and RCD

The District's maintenance responsibility for the Structures is established in the 1959 Agreement. The 1959 Agreement is important when considering Local Solution alternatives, the Community Goals, and the District's roles and responsibilities. The following items reflect the primary policy considerations that are addressed in the attached Report and the recommendations incorporated into the attached resolutions.

## Primary Policy Considerations

The following major policy considerations serve as the basis for evaluating the Committee's recommendations, and those provided by staff. Detailed discussion of these policy considerations are included in the attached report.

- Levels of service evaluated in the Swanson Study.
- Levels of service which are reasonable to fund with property assessment increases recommended by the Zone 1 & 1A Advisory Committee and supported by the Task Force and staff and representatives of the NRCS and the RCD.
- Levels of service that may be funded, based on the Committee's recommendations, in comparison to the District's responsibility to maintain the Structures under the 1959 Agreement.

In summary, staff recommends that your Board approve the attached resolutions to continue your support of a Local Solution. Recommended action includes the following:

- Adoption of the attached resolution to initiate annexing properties to Zone 1 which receive special benefits from maintaining the Structures as determined by the assessment engineer.
- Proceed with a property owner assessment election (generally referred to as a Proposition 218 election) which if approved would authorize your Board with the ability to increase annual property assessments in an amount not to exceed \$350,000 beginning in fiscal year 2006-07, and no more than 3% per year in subsequent years.
- Approve contract amendments to the 1959 Agreement and request approval by NRCS and RCD. The contract amendments seek support for a Local Solution by:
  - Eliminating the current 3-party approval requirement (NRCS, RCD, and District) for maintenance plans (sometimes referred to as "Work Plans") and provides your Board with discretion to determine maintenance service levels based on the desires of property owners, as may be established through property assessment votes - Consistent with the Article XIII(D) of the California State Constitution.
  - Providing your Board with the authority to assign the maintenance efforts to an independent Special District at some future time if you deem it is the appropriate option for a Local Solution – Consistent with your Board's legislative/regulatory platform adopted February 7, 2006.
- Request NRCS to provide technical consultation for preparing environmental permit applications and other environmental reports needed as a result of federal environmental regulations adopted subsequent to execution of the 1959 Agreement.

- Authorized the Director of Public Works to apply for Federal and State grants for the Structures.

## **Other Agency Involvement/Impact**

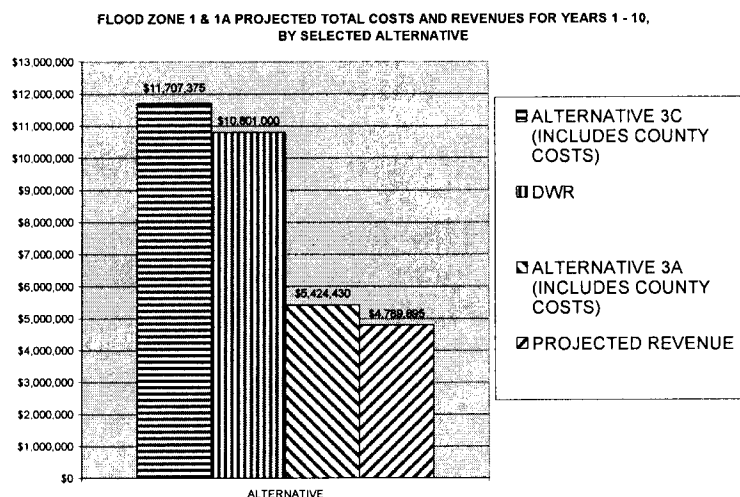
### **Flood Control Zone 1 & 1A Advisory Committee**

Your Board created the Zone 1 & 1A Advisory Committee (Committee) on December 4, 2001. The Committee has organized numerous meetings and is acting in a leadership role for the Community Coalition in pursuing the Community Goals with representatives of the RCD, the NRCS, the Task Force, and other affected agencies and responsible organizations; and staff believes the Committee is meeting critical milestones and progressing towards a Local Solution.

County Counsel has approved the attached resolutions as to legal form and effect. Risk Management has provided estimated costs for annual insurance charges. General Services operates the Oceano Airport, who together with the South San Luis Obispo County Sanitation District and the State of California are public agencies included in the proposed assessments. Numerous State and Federal agencies are involved in environmental review and permitting.

## **Financial Considerations**

The following graph illustrates the estimated costs of the DWR Alternative, Swanson Alternatives #3C, Swanson Alternative #3A, and the Zone 1&1A revenues assuming a property owner assessment vote passes for an increase in assessments of \$350,000. Details of financial considerations are addressed in the attached report.



The Swanson Alternative #3A illustrated above excludes certain costs and services, including "farmland inundation," environmental, and improvements to the Structures, which are illustrated

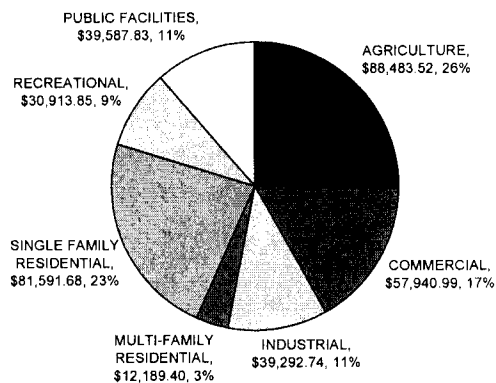
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in Table 3.4 of the Swanson Study but not reasonable to fund based on the Advisory Committee recommendation to increase annual assessments.

The following illustrates how the assessment engineers report allocates the assessments by land use:

TOTAL COST ALLOCATION BY LAND USE OF PROPOSED \$350,000 ASSESSMENT



## **Results**

Approval of the resolutions will continue support for a Local Solution consistent with the Petition and Community Goals. Development of a long-term viable plan for the Structures will help assure a more livable, safe, and well governed community.

### **Attachments:**

- Vicinity Map
- Attachment A
- Attachment B
- Attachment C
- Report entitled "Policy Considerations for Maintenance of the Arroyo Grande and Los Berros Creek Levees"  
**(Swanson Report-Jan. 4, 2006 Clerk's File)**
- Resolution of Intention of the SLOCFC&WCD to Annex Certain Parcels in the County of San Luis Obispo to Flood Control Zone 1 of Intention
- Resolution for Approval of Findings, Policies and Staff Direction on the subject of Relinquishing the Arroyo Grande and Los Berros Creek Levees to the California Department of Water Resources, including a contract amendment with the NRCS & CSLRCD

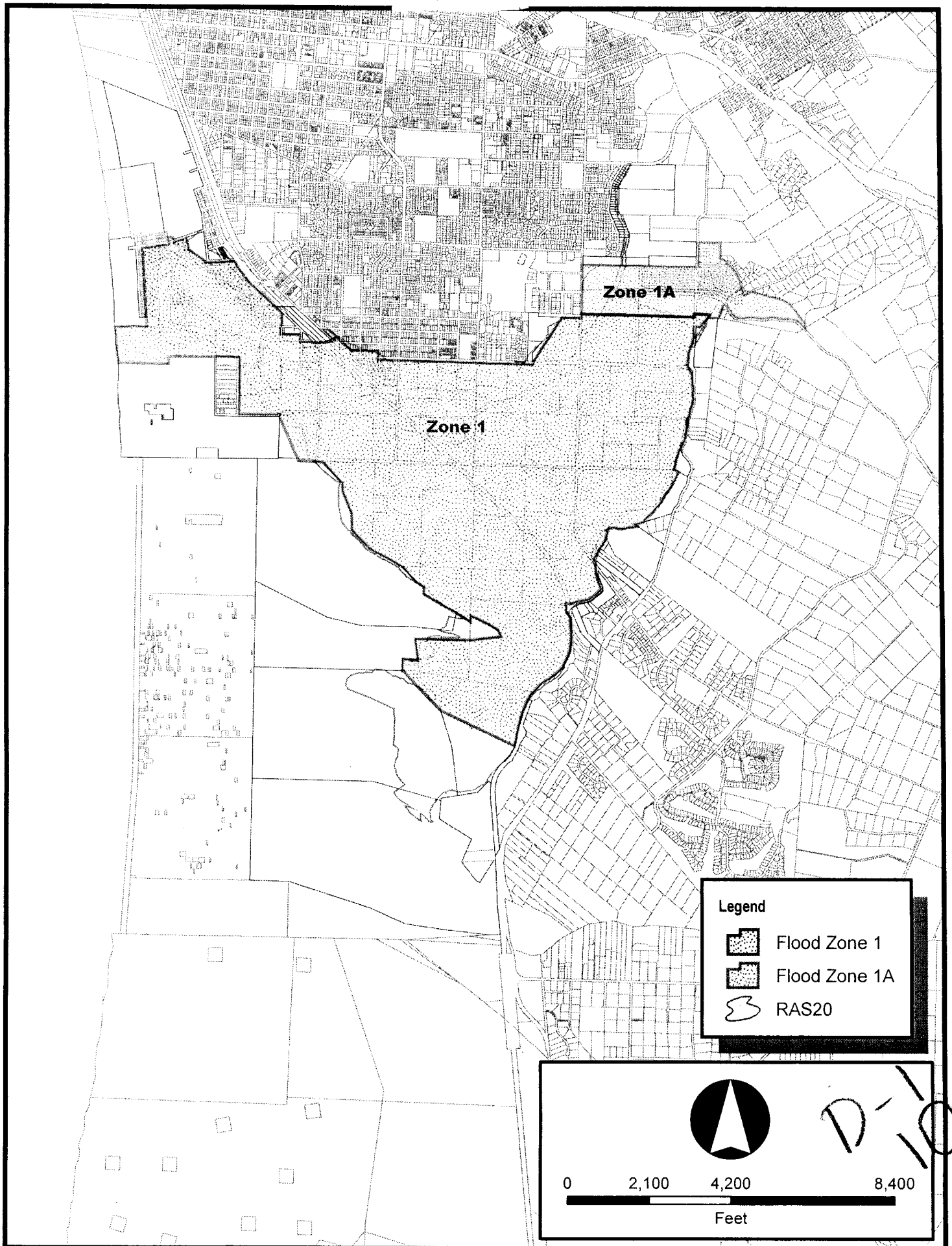
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Reference: 06FEB28-C-9

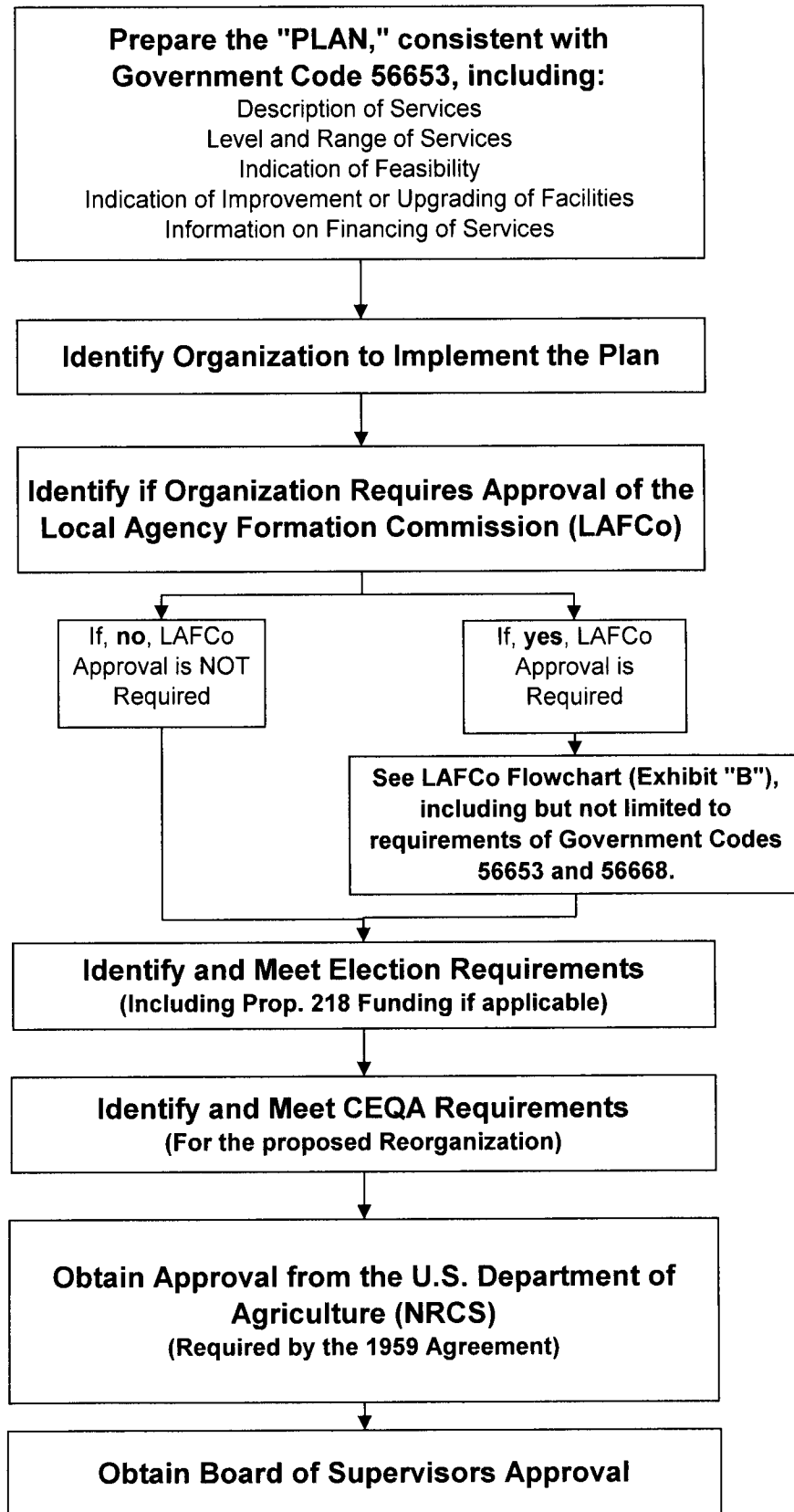
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VICINITY MAP

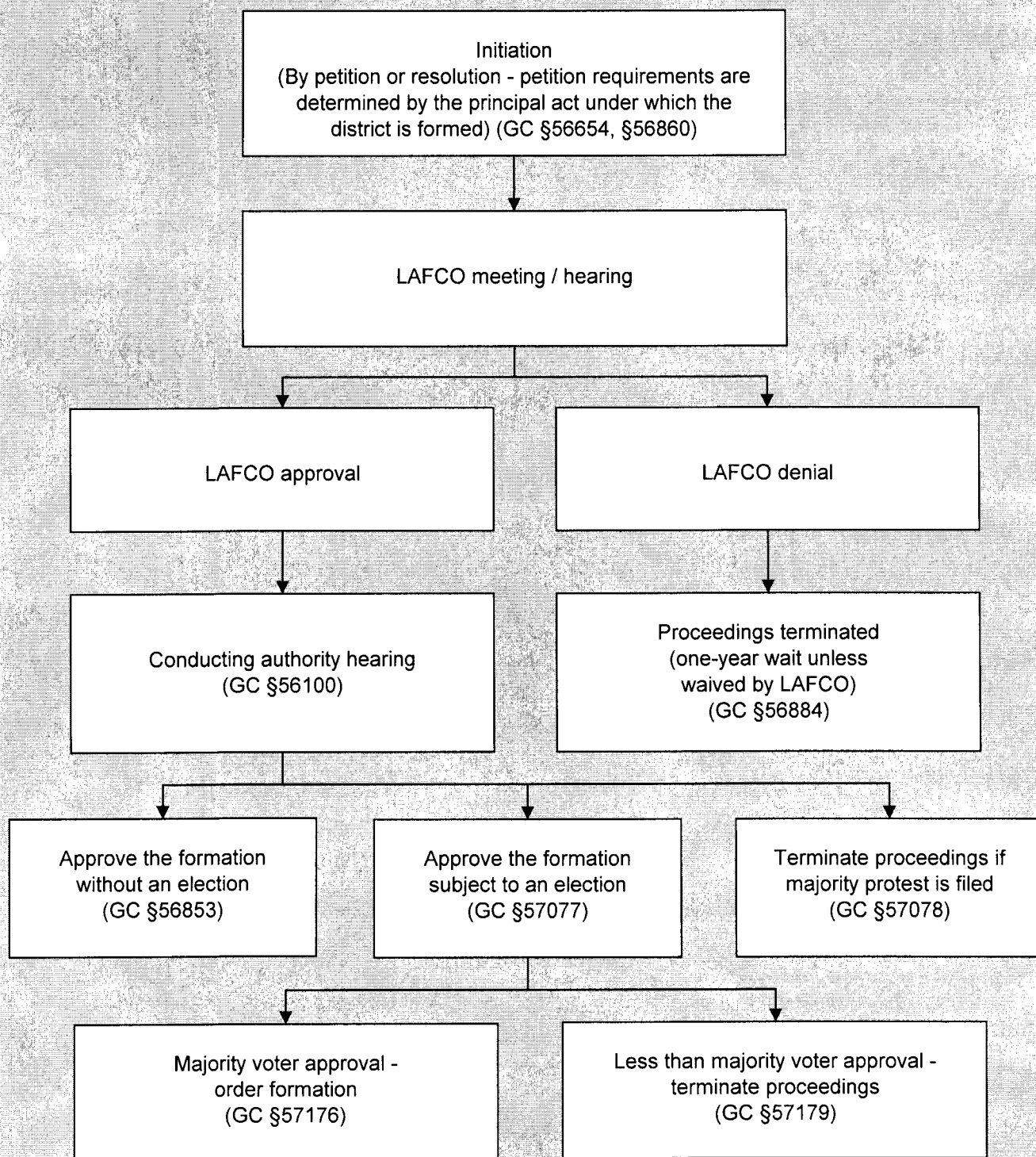


## Consideration of a Plan to Reorganize Flood Control Zone 1/1A



D-1  
11

## Local Agency Formation Commission (LAFCO)



D-12

**FLOOD CONTROL ZONE 1-1A**  
Annexation and Election  
Timeline and Task

FZ 1/1A Annexation	<b>Board Time</b> -Resolution - Intent to Annex Set Hearing - March 21, 2006 Direct Clerk to Notice Hearing	February 28, 2006 - -	Minimum 14 days for noticing	<b>Hearing</b> - March 21, 2006 -Resolution - Annexing
Assessment Area Vote	<b>Consent</b> -Receive/File Final Engr's Report -Set Hearing (June 6) Mail Notice and Ballots	March 21, 2006 - -	<div> <div>4</div> <div>5</div> <div>d</div> <div>a</div> <div>y</div> <div>s</div> </div> <b>Hearing</b> <div> <div>-Receive Testimony</div> <div>Receive Ballots</div> <div>Close Hearing</div> <div>Direct Clerk to tabulate ballots</div> </div> <div> <div>June 6, 2006</div> <div>-</div> <div>-</div> <div>-</div> </div>	<b>Consent</b> - June 13, 2006 -Declare the results of the election

D-1  
13

**Policy Considerations  
for  
Maintenance of the Arroyo Grande and Los  
Berros Creek Levees**

(In response to a  
Petition of a Community Coalition  
Submitted to  
The Board of Supervisors  
of the  
San Luis Obispo County Flood Control and Water Conservation District  
on  
June 14, 2005)

Prepared by:  
The San Luis Obispo County Public Works Department

for the

**San Luis Obispo County Flood Control and Water  
Conservation District  
Zones 1 & 1A**

**February 28, 2006**

D-1  
14

## Table of Contents

<b>Introduction.....</b>	<b>3</b>
<b>Primary Policy Considerations.....</b>	<b>6</b>
<b>Levels of Service Evaluated in the Swanson Study .....</b>	<b>6</b>
<b>Levels of Service that are Reasonable to Fund with Property Assessment     Increases Recommended by the Committee and Supported by the Task Force,     the RCD, and the NRCS.....</b>	<b>8</b>
<b>Levels of Service that may be Funded based on the Committee's     Recommendation in Comparison to the District's Responsibility to Maintain the     Structures under The 1959 Agreement.....</b>	<b>11</b>
<b>Schedule of Actions for a Local Solution prior to June 30, 2006 .....</b>	<b>14</b>
<b>Subsequent Efforts.....</b>	<b>15</b>
<b>Environmental Regulatory Considerations .....</b>	<b>15</b>
<b>Fiscal Year 2006-07 Goals and Objectives .....</b>	<b>18</b>
<b>Exhibits .....</b>	<b>19</b>
<b>A. Petition and Community Goals – June 14, 2005 .....</b>	<b>19</b>
<b>B. Swanson Report – January 4, 2006 (Clerk's File) .....</b>	<b>19</b>
<b>C. Cannon Associates Draft Assessment Increases–February 2006 .....</b>	<b>19</b>

D-1  
15

## Introduction

In 1959, the Board of Supervisors of the San Luis Obispo County Flood Control and Water Conservation District (District) approved an agreement (1959 Agreement) with the following two agencies:

- The Federal Natural Resources Conservation Service (NRCS) – formerly known as the USDA Soil Conservation Service; and
- The Coastal San Luis Resource Conservation District (RCD) – formerly known as the Arroyo Grande Soil Conservation District.

Among its terms and conditions, The 1959 Agreement provides that:

- The District will maintain flood control levees (Structures) constructed under the authority of the NRCS for Los Berros and Arroyo Grande Creeks.
- The NRCS will provide technical consultations in support of the District's maintenance of the Structures, but only if NRCS has available resources.
- The District will fund its costs of maintaining the Structures through local taxes levied on properties within Zones 1 & 1A of the District.
- The District's maintenance activities may require approval by the NRCS and the RCD.
- The District's ability to contractually assign its role under the agreement to an independent special district must be approved by the NRCS and RCD.

Subsequent to the agreement, significant Federal and State legislation has been adopted that impacts the terms of The 1959 Agreement, including but not limited to the following:

- 1972 Federal Clean Water Act – Federal legislation that has significantly increased federal authority over maintenance of the Structures through regulatory and permitting requirements.
- 1973 Federal Endangered Species Act – Federal legislation that has significantly increased federal authority over maintenance of the Structures through regulatory and permitting requirements.



- 1976 California Coastal Act – State legislation that has significantly increased State authority over the lower 1/3 of the channel through regulations and permitting requirements.
- 1978 State Proposition 13 – A state-wide voter approved amendment to the California State Constitution restricting local agencies' (and your Board's) ability to levy taxes without voter approval (2/3rds majority required for special taxes).
- 1997 State Proposition 218 - A state-wide voter approved amendment to the California State Constitution restricting local agencies' (and your Board's) ability to establish new (or increase existing) assessments and property related charges without approval (50%+1 weighted vote of property owners for assessments; 2/3rds majority required for special taxes).

### March 2001 Levee Failure

In March 2001, the Structures failed, which resulted in flood damages to nearby properties. Litigation resulted and claims were settled at the sole expense of the District<sup>1</sup>; and increasing the cost of maintenance for Zones 1 & 1A. The ability of taxes and assessments generated from properties in Zones 1 & 1A had become insufficient to cover the costs of maintaining the Structures; neither could those taxes and assessments cover the costs of damages from the failing Structures and future increases in risk management charges (insurance). On April 1, 2003, your Board approved Resolution 2003-105 relinquishing maintenance responsibilities to the California Department of Water Resources (DWR), as provided by the California Water Code.

Subsequent to your Board's adoption of Resolution No. 2003-105, California Water Code Section was amended. If Board Resolution No. 2003-105 is rescinded, your Board will not be able to subsequently relinquish without approval of DWR.

In July 2005, DWR was prepared to initiate maintenance responsibilities through State Maintenance Area No. 18 based on Board adoption Resolution 2003-105.

On June 14, 2005, your Board held a public hearing on the pending transfer of maintenance responsibilities to DWR. At that hearing, a petition (Petition) – see Exhibit "A" – was submitted to your Board with signatures of 756 individuals, including a representative of NRCS, requesting your Board to defer the relinquishment of the Structures to DWR for one year in support of the development of a local solution (Local Solution) as an alternative to the DWR relinquishment. The Petition listed the following goal, (Community Goals):

1. *"Develop a viable Flood Protection and Stormwater Management Plan that will reduce the current high liability potential."*

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<sup>1</sup> i.e. no liability was incurred by NRCS or RCD under the terms of The 1959 Agreement

2. *Develop a local management structure for long-term implementation of the Plan.*
3. *Develop a financial strategy for implementing the Plan that will also minimize financial hardship on property owners.*
4. *Maintain a community coalition through education, outreach and involvement.”*

Based on the Petition of the Community Coalition, advice of the Zone 1/1A Advisory Committee and Task Force, and the testimonies of the staff and representatives of the NRCS and RCD, your Board provided general direction to staff to defer the relinquishment, and among other recommendations, to support the NRCS and RCD in efforts consistent with the Community Goals. Then, on June 28, 2005, your Board formally approved Resolution 2005-183; deferring the relinquishment to DWR for one year, until July 1, 2006, so that the Committee, the RCD and NRCS could have time to develop a Local Solution.

## Primary Policy Considerations

### Levels of Service Evaluated in the Swanson Study

The "Arroyo Grande Creek Erosion, Sedimentation and Flooding Alternatives Study" was prepared by Swanson Hydrology and Geomorphology (Swanson Study) for the Coastal San Luis Resource Conservation District (RCD) and finalized on January 4, 2006. The study included hydrological analysis, detailed topographical surveys, hydraulic analysis, sediment budgets and source assessments, and sediment transport analysis.<sup>2</sup> The Study also provided a history of major flooding events in the floodplain.

As illustrated in Figure 1.3 of the Swanson Study, the following table lists some of major flooding events that have occurred that resulted in damages:

Year	Identified Impacts
1883-84	Damages not identified in study (only that they occurred)
1893	Damages to diversion dam, roads, railroad bridge, local farms
1895	Damages not identified in study (only that they occurred)
1907	Damages to railroads, bridges and roads
1909	Damages to railroads, bridges, "devastated the Arroyo Grande Valley"
1911	Damages to railroads, bridges, "devastated the Arroyo Grande Valley"
1914	Damages to railroads, bridges, "devastated the Arroyo Grande Valley"
1936-37	Flooding in Arroyo Grande and Oceano
1943	Damages not identified in study (only that they occurred)
1952	Damages to bridges and roads; local farms
2001	Levee system failure; farmland and other properties damaged

The report also identified major storms in 1969, 1983, and 1997 *that did not result in damages*; "most likely due to flood storage provided by Lopez Reservoir."<sup>3</sup>

### Overview of the Alternatives Analysis in the Swanson Study

The Swanson Study is the most comprehensive analysis of causes of sedimentation in the Structures and alternative solutions that has been prepared by any of the agencies that are parties to The 1959 Agreement. It provides numerous alternatives that will be very useful in applying for environmental permits (see Section 4(a) of this report for a summary of environmental permitting and review requirements). Some expansion of alternatives may be needed in preparation of environmental permit applications. In

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<sup>2</sup> Swanson Study, Jan. 4, 2006 Page vii

<sup>3</sup> Swanson Study, Jan. 4, 2006 Page 4.

summary, the Swanson Study evaluation of alternatives can be characterized in the following manner:

- Ongoing maintenance efforts
- Removal of existing sedimentation and vegetation
- Levee improvements and other watershed programs and projects that should be considered to restore and/or enhance the original design capacity based on:
  - i. Their expectation that environmental permits cannot be obtained to remove the sedimentation to the channel bottom as provided in The 1959 Agreement.
  - ii. Increased urbanization in the watershed.
  - iii. Improved technical analysis of the watersheds hydrological and hydraulic conditions

On November 8, 2005, a status report was provided to your Board, at which time the Swanson Alternative #3C was cited as the preferable alternative by the Zone 1 & 1A Advisory Committee. That alternative's effectiveness in minimizing flood damage included improvements outside of the District's contractual responsibilities under The 1959 Agreement. Subsequent to your Board's November 2005 status report, the Committee has modified its endorsement to Swanson Alternative #3A. The Swanson recommendation is Alternative #4. Staff recognizes that the Alternative #3A is more reflective of the maintenance obligations of the District as compared to Swanson Alternative #3C and believes that the modified recommendation is appropriate. It should also be noted that the Swanson Study evaluates the affordability of the alternatives and that the Committee's funding recommendation was made with knowledge of the cost of the other alternatives and the levels of service that could be pursued for the Structures. While staff does support the change in recommendation from the Committee, and believes it to be more consistent with the District's obligation under The 1959 Agreement, we do not have a formal recommendation for any alternative or specific actions at this time since environmental review and permitting requirements must first be fully developed.

#### The Swanson Study Addresses Maintenance Obligations for the Structures

In determining the alternatives to analyze, the Swanson Study includes statements regarding The 1959 Agreement, and other documents relating to the Structures and its original design. Those statements cover such topics as the DWR relinquishment process, the DWR work plan, and in general, the Swanson Study discusses obligations relating to the Structures. From those statements, it is not entirely clear, but some readers could infer that the Swanson Study concludes that the District is obligated to restore the Structures to the following design flow capacity:

*...an "agreed upon threshold for success"<sup>4</sup>... to equal or exceed the design capacity of 7,500 with two feet of freeboard."*

The Swanson Study states that this agreed upon threshold for success is appropriate since The 1959 Agreement "was still in effect". While staff understands the desire for the Structures to function in the same capacity as originally designed, the District's obligation is expressly limited in The 1959 Agreement. That agreement specifically requires annual inspections to "determine actions necessary to maintain the channel to its constructed capacity" but falls well short of requiring the District to take any and all actions, such as improvements, to restore capacity. Instead, the agreement specifically limits the District's obligation to the following:

"removal of silt and other debris and vegetation from the channel bottom,  
trimming or replacing protective vegetation the channel banks,  
maintaining dike height and width,  
control of rodents along the dikes,  
and the maintaining rock riprap to **essentially originally constructed dimensions**." (Emphasis added)

"other maintenance needs as mutually agreed to by the parties."

As cited in the Swanson Study, the obligation under The 1959 Agreement for "restoring"<sup>5</sup> the capacity of the Structures to "7,500(cfs) with two feet of freeboard "<sup>6</sup> could not be found in the language of The 1959 Agreement. Clarifying the District's responsibility under The 1959 Agreement, and the related costs to property owners in Zone 1 and 1A, is important to distinguish those maintenance activities that are contractually required pursuant to The 1959 Agreement versus other activities, such as restoration and improvement that are discretionary.

#### **Levels of Service that are Reasonable to Fund with Property Assessment Increases Recommended by the Committee and Supported by the Task Force, the RCD, and the NRCS**

The following graph provides a 10 year summary of the primary alternatives and anticipated revenues assuming the recommended increase in assessments of \$350,000 per year is authorized by property owners.

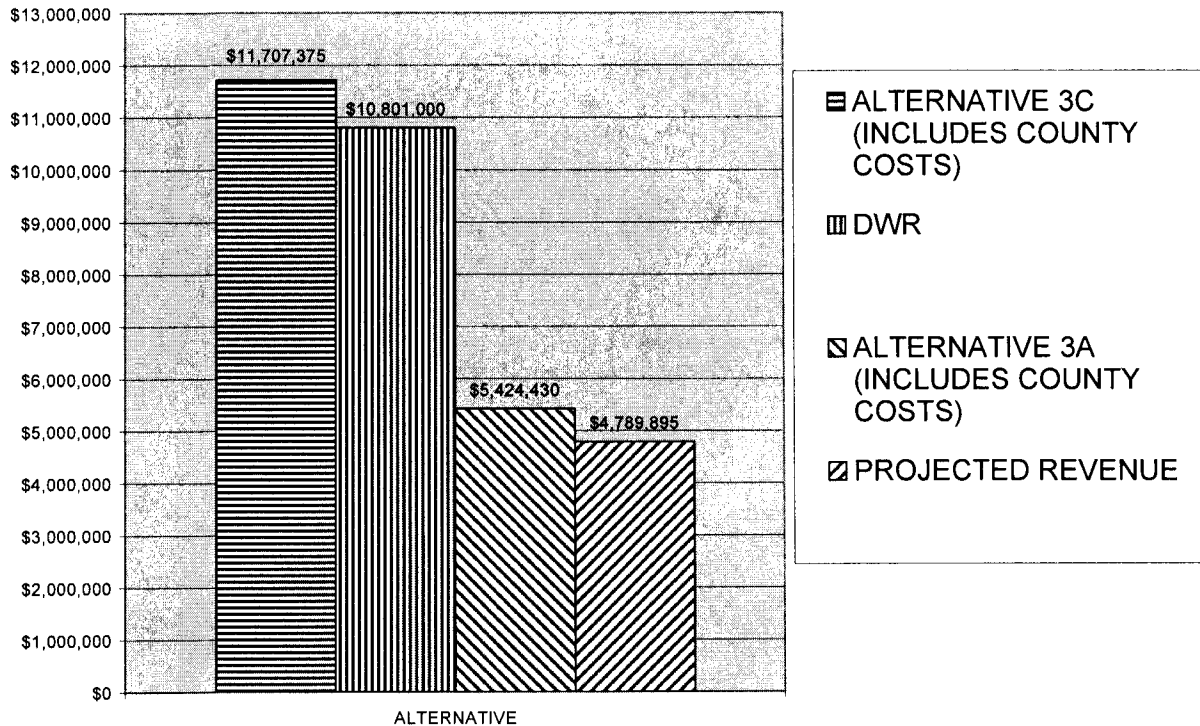
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4 As agreed upon between the Swanson Project Manager, the RCD and the NRCS (page 11 Swanson Study), but notably not by the District.

5 Swanson Study, Page 9

6 Swanson Study, Page 11

**FLOOD ZONE 1 & 1A PROJECTED TOTAL COSTS AND REVENUES FOR YEARS 1 - 10,  
BY SELECTED ALTERNATIVE**

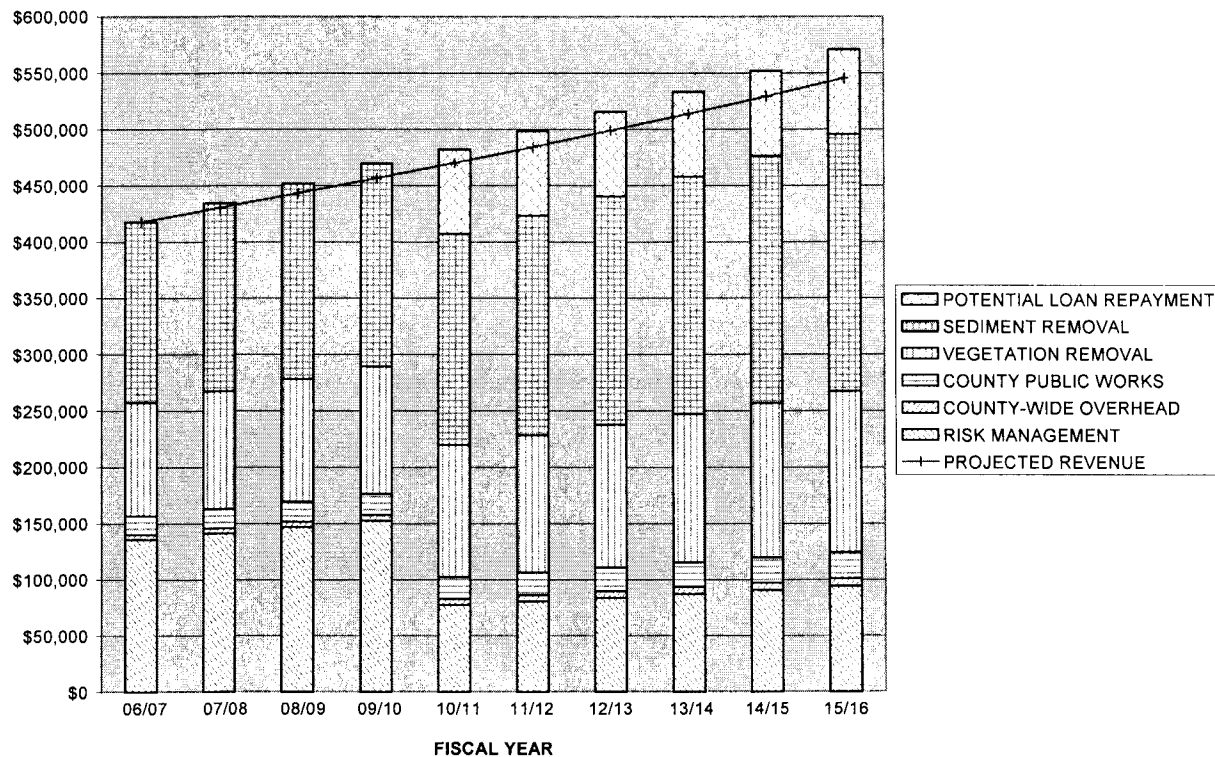


In summary, the Committee's recommendation supporting the increase in assessments would not provide sufficient revenues to accomplish the maintenance and improvements identified in Swanson Alternative #3C. It does, nevertheless, when combined with existing revenues of Zones 1&1A, more closely reflect the estimated yearly costs of vegetation and sediment management for the Structures as identified in Alternative #3A of the Swanson Study (but not all costs and services identified for Alternative #3A). It is important to note that the level of Zone 1/1A funding that will be available for direct maintenance expenditures in future years will depend on future indirect costs of maintenance activities. Those indirect maintenance costs, (which the Swanson Study could not fully evaluate based on timing of budget estimates developed for County and District operations for fiscal year 2006-07), include estimates for risk management, overhead cost allocations, and costs of environmental permitting and mitigation.

The following graph illustrates components of the Zone 1/1A budget that are reasonable based on the Committee's recommended increase in annual assessments of \$350,000 for 2006-07, with 3% increases annually thereafter.

*D-1*

**BREAKDOWN OF PROJECTED COSTS OVER NEXT 10 YEARS**



The cost of obtaining required environmental permits for maintenance activities may be the largest unknown budgetary item. While “risk management/insurance” costs are substantial, the methodology of calculating those costs will cause the insurance claims from the 2001 levee failure to no longer be a “rate factor” in fiscal year 2010/2011. Therefore, about \$75,000 of the revenues needed to cover insurance related costs can be re-allocated for maintenance activities at that time, or ideally, for removal of existing sedimentation in the channel, to the degree that it is possible to do so under environmental regulatory permitting requirements. Staff estimates that a “revenue stream” of about \$75,000 could service the debt on about \$580,000 in loans, with a term of 10 years and an assumed rate of interest of 5%. This possibility is not covered in greater detail at this time since the allowable sediment removal options under environmental permits must first be determined.

The efforts and costs of obtaining environmental permits must, however, be addressed in the very near future. Detailed recommendations have not yet been developed by the Committee, the Task Force, NRCS, RCD, or District staff. The 1959 Agreement provides that the NRCS will provide “technical consultations necessary for the operations and maintenance” but only to the extent that such “technical services are available.” Since the passage of federal environmental regulations after the execution of The 1959 Agreement has created the need for significant technical assistance and technical consultations in order to obtain applicable federal permits, staff is

*Handwritten signature/initials*

recommending that the Board request that NRCS act as lead on those efforts to obtain permits. In other words, as a matter of public policy and the terms of The 1959 Agreement, the federal partner for the Structures should provide any and all technical assistance needed as a result of federal legislation adopted after the execution of The 1959 Agreement. Staff is not knowledgeable on whether NRCS has sufficient resources to carry-out such technical efforts, and given the general condition of the federal budget, the NRCS may not have sufficient resources in their budgets. Nevertheless, the request is consistent with The 1959 Agreement and is good public policy

In the event that the NRCS is not able to allocate sufficient resources to prepare reports and perform other technical efforts needed to obtain environmental permits, alternative approaches to funding the costs will be addressed with your Board at the time that the pass/fail results of the property owner vote to increase assessments is presented to your Board.

**Levels of Service that may be Funded based on the Committee's Recommendation in Comparison to the District's Responsibility to Maintain the Structures under The 1959 Agreement.**

The increase in assessments recommended by the Committee is sufficient to pursue maintenance activities consistent with the District's responsibility under The 1959 Agreement and consistent with property owners' obligation to fund. As previously stated, the recommended funding level is not sufficient to cover costs of improvements to the structures, or the cost of watershed projects and programs that are outside the maintenance responsibilities in The 1959 Agreement. We support the conceptual recommendation of a Memorandum of Understanding (MOU) presented to your Board on November 8, 2005 between affected agencies and other responsible organizations to help structure improvements and address those larger watershed projects and programs.

In addition, since the future costs of maintenance will be affected by variables that are not known at this time, it is appropriate for your Board to consider recommending other changes to create better consistency with laws and regulations that have been enacted since the execution of The 1959 Agreement.

Legislative Platform

On February 7, 2006 your Board approved the following item as part of your "2006 Legislative/Regulatory Platform":

**"Problem:** The operations and maintenance of the Arroyo Grande Creek Levee system of the San Luis Obispo County Flood Control and Water Conservation District (Zones 1 & 1A) is currently provided under a 1959 agreement between the District, the United States Natural Resources



Conservation Service (NRCS), and the Coastal San Luis Resource Conservation District (RCD). The District's assessments have been inadequate to maintain the levee system. Efforts to establish future maintenance and management programs under local-control are ongoing to solve deferred maintenance issues in-lieu of relinquishing the facilities to the California Department of Water Resources. Ongoing efforts include technical evaluation of alternative approaches to facilities maintenance, development of additional funding through a Proposition 218 assessment election, development of cooperative inter-agency memorandums of understanding (MOU's), and the evaluation of alternative approaches to institutional governance. Succeeding in all aspects of these efforts is needed to assure long-term viability of the facilities.

**Resolutions:**

- A. Sponsor legislation that could establish an appropriate locally-controlled special district as a successor in interest to Zones 1 & 1A; and
- B. Sponsor legislation that would provide local agency immunity in flood control levee maintenance cases where funding is rejected under a Proposition 218 election.

In essence, your Board's legislative platform supports consistency with Proposition 218, which was commonly known as the "Right to Vote on Taxes Act." The passage of Proposition 218 was incorporated into the California State Constitution, and through the right to vote proviso, property owners also established the right to determine the levels of service that they may wish to fund. In evaluating the District's responsibility under The 1959 Agreement, it is also important to note that some of the Committee, Task Force and Community Coalition members are property owners who would pay the higher assessments; including those who submitted claims to the District in response to the levee failure in 2001.

Since the Water Code that previously allowed your Board to relinquish maintenance responsibilities has been modified, your Board will no longer have sole authority to relinquish the Structures to DWR if Resolution 2003-105 is rescinded. It is therefore appropriate that future maintenance and/or other activities for the Structures have a direct relationship with the decisions of property owners within Zones 1 & 1A and their desire to fund and obtain service for the Structures. Likewise, establishing the option to create an independent special district for the maintenance activities is needed in case it is deemed to be the most effective alternative to managing those responsibilities in the future.

**Contract Amendments**

Similar to your Board's legislative platform, the attached contract amendments are important to create consistency with laws and regulations that have been enacted since

the execution of The 1959 Agreement. Although the maintenance options that may be allowable under environmental laws and regulations are not yet fully known for the Structures, the contract amendment seeks to recognize that those laws and regulations do in fact substantially address federal interests over maintenance activities. In essence, the contract requirement in The 1959 Agreement to determine "other maintenance needs as mutually agreed to by the parties" is no longer a meaningful consideration in determining allowable maintenance activities since environmental laws and regulations are preeminent. It is important to emphasize that the cooperative relationship and support of the NRCS and RCD with the property owners of Zones 1 & 1A, the Community Coalition, the Task Force and the Committee has been crucial in the progress towards a Local Solution. It is staff's sincerest hope that mutual cooperation will continue, such as those that are envisioned under the Memorandum of Understanding (MOU) previously discussed.

# Schedule of Actions for a Local Solution prior to June 30, 2006

## FLOOD CONTROL ZONE 1-1A

### Annexation and Election Timeline and Task

FZ 1/1A Annexation	<b>Board Time</b> -Resolution - Intent to Annex -Set Hearing - March 21, 2006 -Direct Clerk to Notice Hearing	February 28, 2006	Minimum 14 days for noticing	<b>Hearing</b> - March 21, 2006 -Resolution - Annexing
Assessment Area Vote	<b>Consent</b> -Receive/File Final Engr's Report -Set Hearing (June 6) -Mail Notice and Ballots	March 21, 2006	4 5 d a y s	<b>Consent</b> - June 13, 2006 -Declare the results of the election
			<b>Hearing</b> -Receive Testimony -Receive Ballots -Close Hearing -Direct Clerk to tabulate ballots	1 w e e k

## Subsequent Efforts

### Environmental Regulatory Considerations

Although the processes of annexing additional parcels to the Zone and holding a Proposition 218 election are not subject to the requirements of the California Environmental Quality Act (CEQA), on-going maintenance of the Arroyo Grande Creek Flood Control Channel will trigger CEQA as well as a number of other environmental statutes. As detailed below, the regulatory processes necessary to accomplish channel maintenance are often complex, time consuming, and fairly expensive in relation to construction costs. Based on the requirements of past efforts and the results of various habitat and species surveys conducted in the channel over the past few years, it should be assumed that a comprehensive maintenance program will require the following:

- Preparation of an EIR/FONSI pursuant to CEQA and NEPA
- Coastal Development Permit
- Section 1600 Streambed Alteration Permit
- Section 404 Clean Water Act Permit
- Section 401 Water Quality Certification
- CZMA Coastal Consistency Certification

In the recent past, the District has applied for and received permits to conduct fairly limited maintenance work in the channel. Based on the information gathered during those permit processes, the recent work of the RCD, and the Arroyo Grande Creek HCP, and considering the results of permit consultations with State and Federal Regulatory Agencies, a cost/time estimate of three years and \$600,000 to \$800,000 to fully permit a five-year comprehensive channel maintenance program should be assumed. These estimates do not include permit compliance and mitigation costs which would need to be absorbed into the costs of annual maintenance activities.

### Environmental Review Processes

Based on the requirements applied to past maintenance work, maintenance activities will likely be subject to review under the California Environmental Quality Act (CEQA) as well as under the National Environmental Policy Act (NEPA). Although both CEQA and NEPA carve out exemptions for on-going projects and maintenance work, these exemptions do not extend to the issuance of permits by regulatory agencies. The level of effort and expense required to complete CEQA and NEPA is dependent on the impacts posed by the project. Given that the work would occur in and/or adjacent to a jurisdictional waterway that provides habitat for at least three federally listed species it is likely that an Environmental Impact Report (EIR) would be necessary. As noted below, the Clean Water Act section 404 process will require a detailed alternatives analysis; when the requirements of this analysis are combined with similar processes required by both CEQA

and NEPA, an EIR is often the most efficient approach. On the other hand, federal agencies typically do not prepare a NEPA Environmental Impact Statement (EIS) for projects of this size. Therefore, the expected document would be a CEQA EIR combined with a NEPA EA (Environmental Assessment) that is carefully scoped to include a section 404 style alternatives analysis.

#### Coastal Development Permit

Portions of the flood control channel are located within the Coastal Zone. In turn, portions of this area are designated original jurisdiction. Projects proposed within the Coastal Commission's original jurisdiction require approval of a local coastal permit at the County level, with automatic referral of the approved permit to the Coastal Commission (as opposed to being considered by the Coastal Commission only on appeal). The Coastal Act contains an exemption for "repair and maintenance" projects; however, the exemption does not apply when the maintenance activity has the potential to impact sensitive coastal resources. The Coastal Commission's past practice for maintenance projects on the Arroyo Grande channel has been to require the permit. Further, on the last permit, the Commission required the development of a full alternative analysis and other-agency agreement on the adopted alternative as a condition of the work. Consequently that work was not performed.

#### Streambed Alteration Agreement; California Fish and Game Code Section 1601

Section 1600 et seq. of the California Fish and Game Code requires any person who works in or adjacent to a river, stream or lake to first notify the Department of Fish and Game and receive a Streambed Alteration Agreement. Streambed Alteration Agreements are processed in Fish and Game's regional office in Yountville CA. Fish and Game requires permits for maintenance work; the regulations allow for longer term permits, termed "Memorandums of Understanding", which can last for up to five years.

#### Clean Water Act Section 404 Permit

The U.S. Army Corps of Engineers (ACOE) regulates activities conducted within "waters of the United States". The Arroyo Grande Creek Flood Control Channel is considered a "water of the U.S." and permits from the ACOE are required for the maintenance. The ACOE has previously stated that an "Individual" permit would be required because the scope of maintenance activities necessary for appropriate channel maintenance exceeds the limits of the "nationwide" permit program. The permit process requires that a set of alternatives would need to be developed as prescribed in the Clean Water Act regulations and a separate NEPA document would need to be prepared. The ACOE can only approve the "Least Environmentally Damaging Practicable Alternative" (LEDPA). The analysis, interagency discussions and documentation needed to establish the LEDPA can be costly and time consuming.

Water Quality Certification; Section 401 of the Federal Clean Water Act

Section 401 of the Federal Clean Water Act requires all Federal agencies doing work in California waters, or issuing permits for other agencies to work in waters of the state to receive certification, from the State, that the proposed activity complies with the State's water quality statutes and regulations. Water quality certifications are processed by the State's Regional Water Quality Control Boards (RWQCB). The RWQCB will review the project and typically issues a Standard Certification or a Conditional Certification.

Coastal Zone Consistency Determination; Federal Coastal Zone Management Act

The Federal Coastal Zone Management Act requires all federal agencies doing work in the California coastal zone, or issuing permits for other agencies or individuals to work in the coastal zone, to receive certification, from the State, that the proposed activity complies with the State's coastal plan and policies. Coastal consistency determinations are processed by the Coastal Commission's federal consistency office in San Francisco.

Federal Endangered Species Act

Work in the Arroyo Grande Creek Flood Control Channel may have some level of impact on three federally listed endangered species; the southern steelhead, the California red-legged frog, and tidewater goby. Arroyo Grande Creek has been designated as critical habitat for steelhead. Steelhead clearly use the creek to move from the ocean to better habitat areas up stream, red-legged frogs may also use the channel to move between better habitat areas.

Under the requirements of the federal endangered species act, the Lead Federal Agency on any project is required to consult with federal resource agencies to evaluate the potential impacts to endangered species or their habitats pursuant to section 7 of the Endangered Species Act. The Lead Federal Agency for maintenance work is anticipated to be either the Natural Resources Conservation Service (NRCS) or the U.S. Army Corps of Engineers.

The U.S. Fish and Wildlife Service, an agency of the U.S. Department of the Interior, has the responsibility to address red-legged frogs and tidewater goby. The National Marine Fisheries Service (NMFS), an agency of the U.S. Department of Commerce has the responsibility to address steelhead.



## Fiscal Year 2006-07 Goals and Objectives

The following goals and objectives were developed utilizing the performance review model included in the San Luis Region's Integrated Regional Water Management (IRWM) Plan, adopted by your Board on December 6, 2005.

Performance Criteria	Goals/Objectives	Outcomes/Indicators
Community Acceptance	<ul style="list-style-type: none"> <li>▪ Maintain positive working relationships between staff and representatives of NRCS, RCD, District and Zone 1/1A Advisory Committee</li> <li>▪ Develop a list of detailed strategies with Advisory Committee to continue support for a Local Solution</li> <li>▪ Meet and confer with affected agencies and other responsible organizations to develop a Memorandum of Understanding (MOU) in support of long term sustainability of the Structures</li> </ul>	<ul style="list-style-type: none"> <li>▪ Positive relationships expressed by most, if not all.</li> <li>▪ Detailed strategies developed and documented.</li> <li>▪ Draft MOU completed.</li> </ul>
Fiscal	<ul style="list-style-type: none"> <li>▪ Prepare grant applications under the DWR / Proposition 50 (Integrated Regional Water Management) program and other programs.</li> <li>▪ Evaluate alternative methods of funding a one-time sediment removal effort (loan options) based on probable activities that may be allowable under environmental permits.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Programs, classified/Applications completed before deadlines.</li> <li>▪ Funding options and permit timelines prepared in detail.</li> </ul>
Institutional	<ul style="list-style-type: none"> <li>▪ Evaluate the pros and cons of utilizing an independent special district to meet maintenance responsibilities under The 1959 Agreement.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Evaluation completed.</li> </ul>
Regulatory	<ul style="list-style-type: none"> <li>▪ Complete technical consultations with and submit permit applications to environmental resource agencies responsible for issuing permits for the maintenance of the Structures.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Permit applications submitted.</li> </ul>

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31

**Exhibits:**

- A. Petition and Community Goals – June 14, 2005**
- B. Swanson Report – January 4, 2006 (Clerk's File)**
- C. Cannon Associates Draft Assessment Increases–February 2006**

D-1  
32 ✓



PETITION TO DELAY  
RELINQUISHMENT

ZONE 1-1A FLOOD CONTROL

SAN LUIS OBISPO COUNTY BOARD  
SUPERVISORS

PUBLIC HEARING

JUNE 14, 2005

D-1  
33  
T. Ferrara D-1  
6/14/05

To The Board of Supervisors,

By signing this petition, I am asking that you ~~do~~ request the Department of Water Resources to delay creating Maintenance Area No. 18 for at least one year. This time will be used by our community coalition to develop an alternative solution for the management of the Arroyo Grande Creek Flood Control Zones 1 and 1A.

Our goals for this year include:

- Develop a viable Flood Protection and Stormwater Management Plan that will reduce the current high liability potential.
- Develop a local management structure for long-term implementation of the Plan.
- Develop a financial strategy for implanting the Plan that will also minimize financial hardship on the property owners
- Maintain a community coalition through education, outreach and involvement.

Signature	Name	Address
Emercy D. Haggin	Emercy D. Haggin	2300 Cienaga St. #18 Oceano Ca
Linda L. Haggin	Linda L. Haggin	2300 Cienaga #10, Oceano Ca
Donalt Siebert	Donalt Siebert	2300 Cienaga #41 Oceano, CA
Beth Kahn	RETTY KAHN	2400 CIENAGA #50, OCEANO, CA
Robert Mullins	Robert Mullins	2300 Cienaga #60 Oceano
Donnie D. French	DONNIE D. FRENCH	2300 CIENAGA ST #35, OCEANO, CA
Frank Gallagher	FRANK A. GALLAGHER	2300 CIENAGA #11 OCEANO CA.
Norman Getty	NORMAN GETTY	2400 CIENAGA #67 OCEANO, CA.
Velva Edmonson	Velva Edmonson	2300 Cienaga #37 Oceano
Bill Edmonson	BILL E. EDMONSON	2300 CIENAGA #37 Oceano
Marilyn Johnson	Marilyn Johnson	2300 Cienaga #21 Oceano
Elmetia Rose	Elmetia Rose	2300 Cienaga #14 Oceano

## EXHIBIT C

Draft  
Arroyo Grande and Los Berros Channel  
Maintenance Assessment Spread

APN	LAND_USE	Annual Assessment	Comments
006-077-007	SFR	\$ 368.35	
006-077-008	SFR	\$ 368.35	
006-077-009	SFR	\$ 368.35	
006-077-010	SFR	\$ 368.35	
006-077-011	SFR	\$ 368.35	
006-077-012	SFR	\$ 368.35	
006-077-013	SFR	\$ 368.35	
006-077-014	SFR	\$ 368.35	
006-077-027	SFR	\$ 368.35	
006-077-028	SFR	\$ 368.35	
006-077-029	SFR	\$ 368.35	
006-077-030	SFR	\$ 368.35	
006-077-031	SFR	\$ 368.35	
006-077-032	SFR	\$ 368.35	
006-077-033	SFR	\$ 368.35	
006-077-034	SFR	\$ 368.35	
006-077-047	SFR	\$ 368.35	
006-084-001	AG	\$ -	FCC
006-086-006	MFR	\$ 368.35	
006-086-007	MFR	\$ 368.35	
006-086-008	MFR	\$ 368.35	
006-087-001	PF	\$ -	Flood Control Channel (FCC)
006-087-001	PF	\$ -	FCC
006-087-002	CR	\$ 5,419.90	ASSESSED AS Commercial with 50 % Benefitting
061-032-016	REC	\$ 1,561.98	
061-032-035	REC	\$ 1,022.81	
061-032-037	UNDEV	\$ -	Airport OS
061-033-027	MFR	\$ 368.35	
061-033-030	MFR	\$ 368.35	
061-033-031	MFR	\$ 368.35	
061-033-036	MFR	\$ 368.35	
061-033-037	MFR	\$ 368.35	
061-033-038	MFR	\$ 368.35	
061-033-039	MFR	\$ 368.35	
061-033-040	MFR	\$ 368.35	
061-033-041	MFR	\$ 368.35	
061-033-042	MFR	\$ 368.35	
061-033-049	MFR	\$ 368.35	
061-033-050	MFR	\$ 368.35	
061-033-051	MFR	\$ 368.35	
061-033-052	MFR	\$ 368.35	
061-033-057	MFR	\$ -	
061-033-058	MFR	\$ 368.35	Formerly Parcels 061-033-047/048
061-041-001	SFR	\$ 368.35	
061-041-002	SFR	\$ 368.35	
061-041-003	SFR	\$ 368.35	
061-041-004	SFR	\$ 368.35	
061-041-007	SFR	\$ 368.35	
061-041-009	SFR	\$ 368.35	
061-041-010	SFR	\$ 368.35	
061-041-013	SFR	\$ 368.35	
061-041-014	SFR	\$ 368.35	
061-041-015	SFR	\$ 368.35	
061-041-016	SFR	\$ 368.35	

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Draft  
Arroyo Grande and Los Berros Channel  
Maintenance Assessment Spread

APN	LAND_USE	Annual Assessment	Comments
061-041-017	SFR	\$ 368.35	
061-041-018	SFR	\$ 368.35	
061-041-019	SFR	\$ 368.35	
061-041-020	SFR	\$ 368.35	
061-041-021	MFR	\$ 368.35	
061-042-001	SFR	\$ -	
061-042-003	SFR	\$ 368.35	
061-042-004	SFR	\$ 368.35	
061-042-005	SFR	\$ 368.35	
061-042-007	SFR	\$ 368.35	
061-042-008	SFR	\$ 368.35	
061-042-009	SFR	\$ 368.35	
061-042-010	SFR	\$ -	
061-042-011	SFR	\$ -	
061-042-012	SFR	\$ 368.35	
061-042-013	SFR	\$ -	
061-042-014	SFR	\$ -	
061-042-015	SFR	\$ -	
061-042-016	SFR	\$ -	
061-042-017	SFR	\$ -	
061-042-022	MFR	\$ 368.35	
061-042-023	MFR	\$ 368.35	
061-042-024	MFR	\$ 368.35	
061-042-025	MFR	\$ 368.35	
061-042-026	MFR	\$ 368.35	
061-042-027	MFR	\$ 368.35	
061-042-028	MFR	\$ -	
061-044-006	SFR	\$ 368.35	
061-044-012	SFR	\$ -	
061-044-014	SFR	\$ 368.35	
061-044-017	MFR	\$ 368.35	
061-044-026	SFR	\$ 368.35	
061-044-027	SFR	\$ 368.35	
061-044-034	SFR	\$ -	
061-044-035	SFR	\$ -	
061-046-012	SFR	\$ -	
061-046-014	CR	\$ -	
061-046-015	CR	\$ -	
061-046-016	CR	\$ -	
061-046-017	CR	\$ -	
061-046-020	CR	\$ -	
061-046-027	SFR	\$ 368.35	
061-046-028	SFR	\$ -	
061-046-033	SFR	\$ 368.35	
061-046-034	SFR	\$ -	
061-046-035	SFR	\$ 368.35	
061-046-040	SFR	\$ 368.35	
061-046-041	SFR	\$ 368.35	
061-046-042	SFR	\$ 368.35	
061-046-043	SFR	\$ 368.35	
061-046-044	SFR	\$ 368.35	
061-046-045	SFR	\$ -	
061-046-049	SFR	\$ -	
061-046-050	SFR	\$ 368.35	

2/14/2006

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2 of 7

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Draft  
Arroyo Grande and Los Berros Channel  
Maintenance Assessment Spread

APN	LAND_USE	Annual Assessment	Comments
061-046-051	SFR	\$ 368.35	
061-046-052	SFR	\$ -	
061-046-057	SFR	\$ -	
061-046-058	SFR	\$ -	
061-046-059	SFR	\$ -	
061-046-060	SFR	\$ -	
061-046-061	SFR	\$ -	
061-046-062	SFR	\$ -	
061-046-063	SFR	\$ -	
061-046-064	SFR	\$ -	
061-046-065	SFR	\$ -	
061-046-066	SFR	\$ -	
061-081-015	SFR	\$ 431.42	
061-081-016	SFR	\$ -	
061-081-019	SFR	\$ 368.35	
061-081-024	SFR	\$ 368.35	
061-081-026	SFR	\$ -	
061-081-027	SFR	\$ -	
061-081-030	SFR	\$ 368.35	
061-081-031	SFR	\$ 368.35	
061-081-033	SFR	\$ 368.35	
061-081-035	SFR	\$ 368.35	
061-081-036	MFR	\$ 368.35	
061-081-037	SFR	\$ 368.35	
061-082-001	SFR	\$ -	
061-082-002	UNDEV	\$ -	
061-082-004	SFR	\$ 368.35	
061-082-006	SFR	\$ 368.35	
061-082-007	SFR	\$ 368.35	
061-082-010	MFR	\$ 402.07	
061-082-011	SFR	\$ -	
061-082-014	SFR	\$ 368.35	
061-082-015	SFR	\$ -	
061-082-016	SFR	\$ 368.35	
061-082-017	SFR	\$ 368.35	
061-082-018	SFR	\$ 368.35	
061-082-019	SFR	\$ 368.35	
061-082-020	SFR	\$ 368.35	
061-082-021	SFR	\$ 368.35	
061-082-022	SFR	\$ -	
061-082-023	SFR	\$ 368.35	
061-082-024	SFR	\$ 368.35	
061-082-025	SFR	\$ -	
061-082-026	SFR	\$ -	
061-083-001	SFR	\$ 368.35	
061-083-003	SFR	\$ 368.35	
061-083-004	SFR	\$ 368.35	
061-091-018	PF	\$ 15,633.64	1.54 ac no benefit
061-091-019	UNDEV	\$ -	Pond
061-091-019	UNDEV	\$ -	Pond
061-091-025	UNDEV	\$ -	Pond
061-091-027	REC	\$ 3,123.32	
061-091-027	REC	\$ 1,507.11	
061-091-029	AG	\$ 1,576.56	10.4 as CR/IND(incl'd RV Storage), 25.62 as AF, 23.5 as UNDEV

2/14/2006

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3 of 7

Draft  
Arroyo Grande and Los Berros Channel  
Maintenance Assessment Spread

APN	LAND_USE	Annual Assessment	Comments
061-091-029	PF	\$ 23,217.47	10.4 as CR/IND(incl RV Storage), 25.62 as AF, 23.5 as UNDEV
061-091-029	UNDEV	\$ -	10.4 as CR/IND(incl RV Storage), 25.62 as AF, 23.5 as UNDEV
061-091-029	PF	\$ 736.71	
061-101-014	REC	\$ 3,382.25	
061-101-014	UNDEV	\$ -	Pond
061-113-030	MFR	\$ -	
061-113-039	MFR	\$ -	
061-113-041	MFR	\$ 368.35	
061-113-043	MFR	\$ 368.35	
061-113-044	MFR	\$ 368.35	
061-113-045	MFR	\$ 368.35	
061-113-046	MFR	\$ 368.35	
061-126-012	CR	\$ 4,058.90	15.1 ac no benefit
061-131-001	CR	\$ -	
061-131-004	IND	\$ 1,093.80	.89 ac no benefit
061-131-005	CR	\$ -	
061-131-009	IND	\$ 2,081.40	0.45 no benefit
061-131-012	REC	\$ -	
061-131-020	CR	\$ -	lot line adjustment parcels 7, 8, 10, 11, 13 into three parcels: numbers 2
061-131-021	IND	\$ -	lot line adjustment parcels 7, 8, 10, 11, 13 into three parcels: numbers 2
061-131-022	IND	\$ 2,522.67	lot line adjustment parcels 7, 8, 10, 11, 13 into three parcels: numbers 2
061-134-001	IND	\$ 1,839.35	
061-134-006	IND	\$ -	
061-134-007	IND	\$ -	
061-134-008	IND	\$ 2,573.16	
061-134-009	IND	\$ -	
061-161-008	AG	\$ 980.59	1.81 ac no benefit
061-161-008	AG	\$ 73.67	
061-161-008	AG	\$ 73.67	
061-161-008	AG	\$ 73.67	
061-161-008	AG	\$ 73.67	
061-161-008	AG	\$ 73.67	
061-161-008	AG	\$ -	FCC
061-161-009	AG	\$ 1,895.35	5.56 ac no benefit
061-161-009	AG	\$ 113.73	
061-161-010	AG	\$ 42.50	5.26 ac no benefit
061-161-011	AG	\$ 223.24	5.04 ac no benefit
061-161-012	UNDEV	\$ -	no benefit
061-171-003	CR	\$ -	
061-171-004	IND	\$ 1,125.58	
061-171-005	IND	\$ 2,263.75	
061-171-006	CR	\$ 3,071.31	
061-171-007	IND	\$ 3,012.95	
061-171-007	IND	\$ 2,987.23	
061-261-006	IND	\$ 1,686.26	126=261 in apn, 2.0 ac no benefit
061-261-007	AG	\$ 1,444.03	126=261 in apn
061-261-013	CR	\$ 12,397.44	126=261 in apn, Visible improvements, 2.54 ac No Benefit
061-321-001	AG	\$ 1,249.60	
061-321-002	AG	\$ 1,137.30	
061-321-003	AG	\$ 1,176.50	7.7 AC as AG and 7.7AC as CR/IND
061-321-003	CR	\$ 17,189.86	7.7 AC as AG and 7.7AC as CR/IND
061-321-004	AG	\$ 1,793.78	
061-331-001	CR	\$ 3,745.99	0.21 ac no benefit
061-331-002	AG	\$ 113.77	0.70 ac no benefit

2/14/2006

Draft  
Arroyo Grande and Los Berros Channel  
Maintenance Assessment Spread

APN	LAND_USE	Annual Assessment	Comments
061-331-003	AG	\$ 1,011.14	
061-331-004	AG	\$ 1,255.90	
061-331-005	AG	\$ 1,161.04	
061-331-006	AG	\$ 803.91	
061-331-008	AG	\$ 572.91	
061-331-009	AG	\$ 897.97	
061-331-010	AG	\$ 1,247.79	
061-331-011	AG	\$ 621.44	
061-331-012	AG	\$ 1,256.32	
061-331-013	AG	\$ 1,271.53	
062-083-004	CR	\$ -	
062-083-010	CR	\$ -	
062-083-012	CR	\$ -	
062-083-013	CR	\$ -	
062-083-014	CR	\$ 736.71	
062-083-019	CR	\$ 43.11	
062-086-020	CR	\$ 736.71	
062-086-021	CR	\$ -	
062-111-001	CR	\$ 736.71	
062-111-009	CR	\$ 736.71	
062-111-010	CR	\$ -	
062-111-011	CR	\$ -	
062-111-014	CR	\$ 736.71	
062-111-018	CR	\$ 736.71	
062-111-019	CR	\$ -	
062-111-022	CR	\$ 736.71	
062-111-023	SFR	\$ 368.35	
062-111-024	CR	\$ -	
062-111-027	CR	\$ 736.71	
062-111-028	CR	\$ -	
062-111-029	CR	\$ -	
062-111-030	CR	\$ 736.71	
062-112-002	IND	\$ 736.71	
062-114-006	CR	\$ 736.71	
062-114-007	SFR	\$ -	
062-114-016	CR	\$ -	
062-114-022	CR	\$ 1,207.80	
062-114-023	CR	\$ -	
062-115-002	SFR	\$ 368.35	
062-115-005	SFR	\$ -	
062-115-006	CR	\$ -	
062-115-011	SFR	\$ 368.35	
062-115-013	CR	\$ -	
062-115-017	SFR	\$ 368.35	
062-115-022	SFR	\$ 368.35	
062-115-023	SFR	\$ 368.35	
062-115-024	SFR	\$ -	
062-115-025	IND	\$ 736.71	
062-115-029	SFR	\$ 368.35	
062-115-030	CR	\$ -	
062-115-031	CR	\$ -	
062-115-032	IND	\$ 736.71	
062-115-033	CR	\$ -	
062-115-034	CR	\$ -	

2/14/2006

Draft  
Arroyo Grande and Los Berros Channel  
Maintenance Assessment Spread

APN	LAND_USE	Annual Assessment	Comments
062-117-003	CR	\$ 1,033.54	
062-117-004	CR	\$ -	
062-117-005	CR	\$ 1,181.19	
062-117-008	CR	\$ -	
062-117-009	CR	\$ -	
062-117-011	CR	\$ -	
062-117-012	SFR	\$ 368.35	
062-117-013	CR	\$ -	
062-117-014	CR	\$ -	
062-117-015	CR	\$ -	
062-117-016	CR	\$ -	
062-118-003	IND	\$ 1,271.32	0.96 ac no benefit
062-118-004	IND	\$ 4,842.18	Used for RV Storage
062-118-005	AG	\$ 640.71	AG use, 0.27 no benefit
062-118-007	IND	\$ 5,290.91	1.02 ac no benefit
062-118-008	IND	\$ 736.71	
062-122-005	SFR	\$ 8,557.95	
062-122-006	REC	\$ 17,025.47	Assessed as REC for RV campground
062-122-007	SFR	\$ 478.16	
062-122-009	REC	\$ 3,290.90	1.15 ac no benefit, Assessed as REC for RV campground
062-122-010	SFR	\$ 1,733.95	1.21 ac no benefit
062-142-001	SFR	\$ 426.57	
062-143-001	SFR	\$ 368.35	
062-143-006	SFR	\$ 368.35	
062-143-007	CR	\$ -	
062-143-012	CR	\$ -	
062-143-014	CR	\$ -	
062-143-015	SFR	\$ 516.77	
062-143-016	CR	\$ -	
062-143-017	SFR	\$ 368.35	
062-143-018	SFR	\$ 368.35	
062-143-019	SFR	\$ 368.35	
062-151-002	SFR	\$ 10,237.74	
062-151-004	SFR	\$ 1,881.31	3.14ac no benefit
062-151-005	SFR	\$ 8,283.42	
075-011-004	PF	\$ -	FCC
075-011-020	AG	\$ 1,409.11	
075-011-022	AG	\$ 963.40	2.18 ac no benefit
075-031-002	AG	\$ 1,471.96	
075-031-003	AG	\$ 1,226.68	
075-031-004	AG	\$ 1,215.46	
075-031-005	AG	\$ 1,403.06	
075-031-006	AG	\$ 1,535.16	
075-031-007	AG	\$ 1,337.82	
075-031-013	IND	\$ 3,755.35	PGE Site assessed as Developed
075-031-015	AG	\$ 1,881.23	
075-031-016	AG	\$ 1,767.60	3.43 ac no benefit
075-031-020	AG	\$ 1,886.96	
075-031-021	AG	\$ 1,466.95	
075-032-005	CR	\$ 1,224.86	1.09 ac no benefit
075-032-006	AG	\$ 1,277.54	
075-032-007	AG	\$ 1,874.63	
075-032-008	SFR	\$ 16,629.23	2.37 ac no benefit
075-032-009	AG	\$ 311.20	

2/14/2006

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6 of 7



Draft  
Arroyo Grande and Los Berros Channel  
Maintenance Assessment Spread

APN	LAND_USE	Annual Assessment	Comments
075-032-010	AG	\$ 1,509.21	
<b>075-032-011</b>	<b>AG</b>	<b>\$ 306.75</b>	<b>5.02 ac no benefit</b>
075-032-012	AG	\$ 1,870.96	
075-032-013	AG	\$ 1,433.01	
075-121-002	AG	\$ 1,674.27	
075-121-003	AG	\$ 1,756.51	
075-121-004	AG	\$ 2,047.63	
075-121-005	AG	\$ 1,891.77	
075-121-006	AG	\$ 2,322.01	
075-121-007	AG	\$ 1,700.51	
075-121-008	AG	\$ 73.67	
075-121-009	AG	\$ 1,040.14	
075-121-010	AG	\$ 1,211.51	
075-131-001	AG	\$ 1,729.10	
075-131-002	AG	\$ 1,615.74	
075-131-002	AG	\$ 1,179.36	
075-131-002	AG	\$ 269.79	
075-131-003	AG	\$ 1,863.92	
075-131-003	AG	\$ 156.48	
075-131-004	AG	\$ 1,526.73	
075-131-005	AG	\$ 1,659.47	
075-131-005	AG	\$ 1,117.75	
075-141-001	AG	\$ 3,459.70	
075-141-002	AG	\$ 1,158.70	
075-141-003	AG	\$ 1,540.83	
075-141-004	AG	\$ 1,485.31	
075-141-005	AG	\$ 73.67	
<b>075-181-035</b>	<b>AG</b>	<b>\$ 2,302.77</b>	<b>8.14 ac no benefit</b>
075-181-036	AG	\$ 92.14	
075-191-004	AG	\$ 73.67	
075-191-006	AG	\$ 73.67	
075-191-009	AG	\$ 73.67	
075-191-011	AG	\$ 73.67	
075-191-015	AG	\$ 73.67	
075-191-016	AG	\$ 73.67	
075-191-017	AG	\$ 73.67	
075-191-018	AG	\$ 73.67	
075-191-033	AG	\$ 73.67	
075-191-034	AG	\$ 1,167.47	
075-191-038	AG	\$ 379.62	
<b>075-261-001</b>	<b>AG</b>	<b>\$ 253.09</b>	<b>226.56 ac no benefit</b>
<b>075-261-003</b>	<b>AG</b>	<b>\$ 1,784.75</b>	<b>44.21 ac no benefit</b>
075-321-025	AG	\$ 140.98	
075-321-026	AG	\$ 140.43	
<b>368</b>		<b>\$ 350,000.00</b>	

D-1  
41

## BEFORE THE BOARD OF SUPERVISORS

*of the*  
SAN LUIS OBISPO COUNTY FLOOD CONTROL  
AND WATER CONSERVATION DISTRICT

\_\_\_\_\_ day \_\_\_\_\_, 20\_\_\_\_

PRESENT: Supervisors

ABSENT:

### RESOLUTION NO.

#### RESOLUTION OF INTENTION OF THE SAN LUIS OBISPO COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT TO ANNEX CERTAIN PARCELS IN THE COUNTY OF SAN LUIS OBISPO TO FLOOD CONTROL ZONE 1

The following Resolution is now offered and read:

**WHEREAS**, the Federal Government of the United States of America constructed the Arroyo Grande and Los Berros Creek levees (Structures) as a result of recommendations included in watershed work plans in 1955, 1956, and 1957.

**WHEREAS**, the Board of Supervisors (Board) of the San Luis Obispo County Flood Control and Water Conservation District (District) formed Zones 1 and 1A for purposes including maintaining the Structures pursuant to an Agreement entitled "Watershed Protection Operations and Maintenance Agreement" dated May 15, 1959 (The 1959 Agreement) with the Federal Natural Resources Conservation Service (NRCS), which was formerly known as Soil Conservation Service of the United States Department of Agriculture and the Coastal San Luis Resource Conservation District (RCD), which was formerly known as Arroyo Grande Soil Conservation District.

**WHEREAS**, the San Luis Obispo County Flood Control and Water Conservation District (District ) does not have adequate funding pursuant to The 1959 Agreement and readily available to continue to provide maintenance of Structures without conducting an assessments or special taxes vote of property owners to increase as required by California Constitution Article XIII and

**WHEREAS**, the State Department of Water Resources does have the authority to provide adequate funding to maintain the Structures by assessing parcels receiving flood control protection without having to conduct an election; and

**WHEREAS**, in order to assure adequate long term maintenance of the Structures, the District adopted Resolution No. 2003-105 on April 1, 2003 relinquishing the maintenance of the Structures to DWR; and

**WHEREAS**, a community coalition of San Luis Obispo County Flood Control and Water Conservation District, as supported by a June 14, 2005 petition filed with the District's Board of Supervisors as an agenda item and part of the Clerk's public record, requested a one year delay in the relinquishment of the Flood Zones to the State Department of Water Resources; and

D-1  
42

**WHEREAS**, in an attempt to provide for the continued maintenance of the Structures, the District passed resolution number 2005-183 on June 28, 2005 requesting the State proceed to conclusion with only those aspects of the implementation of a State Maintenance area 18, as described in Water Code sections 12878.1 through 12878.19, and that the State delay the filing for record of the order determining and establishing the boundaries of the State Maintenance Area 18 for a period of 12 months from July 1, 2005 through July 1, 2006; and

**WHEREAS**, the District Board approved the one-year delay requested by the community coalition so that the coalition could develop an alternative local solution including a plan and a method to provide adequate funding sources to enable continuing flood control protection from the Structures; and

**WHEREAS**, the District's Zone 1-1A Advisory Committee was formed in 2001 to provide recommendations to the District regarding appropriate actions to provide flood protection for the properties within the boundaries of Flood Control Zone 1 and 1A; and

**WHEREAS**, an assessment engineer was subsequently hired by the District at the request of the Advisory Committee, and a determination was made that all parcels within the 20 year flood boundary receive benefit from the maintenance of the levees; and

**WHEREAS**, certain parcels of land within the 20 year flood boundary, are outside the existing boundaries of the San Luis Obispo County Flood Control and Water Conservation District Zone 1; and

**WHEREAS**, in order to assess these parcels for their proportionate share of the cost of flood control benefits resulting from the Structures maintenance, the parcels must be annexed to Zone 1 of the San Luis Obispo County Flood Control and Water Conservation District; and

**WHEREAS**, the District Zone 1-1A Advisory Committee has recommended that the District annex all land parcels presently within the 20 year flood boundary that are not presently within the existing boundaries of Zones 1-1A of the District to the Zone 1 of the District.

**WHEREAS**, it is in the public interest that these lands be annexed to the San Luis Obispo County Flood Control and Water Conservation District Zone 1; and

**WHEREAS**, the San Luis Obispo County Flood Control Act, Section 3.2, describes the procedures to be followed to annex land to a Zone of the San Luis Obispo County Flood Control and Water Conservation District.

**NOW, THEREFORE, BE IT RESOLVED AND ORDERED** by the Board of Supervisors of the San Luis Obispo County Flood Control and Water Conservation District, State of California, as follows:

1. The action to annex additional parcels to Flood Control Zones 1 and 1A is not subject to CEQA because the activity is not a project or is statutorily exempt from CEQA pursuant to: CEQA Section 21065 and State CEQA Guidelines section 15378(b)(5) and 15378(b)(4); and CEQA Section 21065 and State CEQA Guidelines Section 15261(a). The activity is an organizational or administrative activity of government that will not result in direct or indirect physical changes in the environment as described in State CEQA Guidelines Section 15378(b)(5) and is therefore not a "project" subject to CEQA; the activity is part of the creation of a government funding mechanism or other fiscal activities which do not involve any commitment to any specific "project" which may result in potentially significant physical impacts on the environment as described in State CEQA Guidelines Section 15378(b)(4); and the activity is being undertaken for the furtherance of an on-going project which has had substantial funds already expended and which will not result in new significant effects on the environment as described in State CEQA Guidelines Section 15261(a).
  2. Board approves of assessment Engineer's conclusion that all parcels on Exhibit A are benefited by the Structures.
  3. That this Board proposes to annex the parcels listed in Exhibit "A" attached hereto and made a part hereof as though fully set forth herein to Zone 1 of the San Luis Obispo County Flood Control and Water Conservation District.
- D-1  
42  
4

4. That the boundaries of the properties proposed for annexation to Zone 1 are delineated in map form in Exhibit "B", attached hereto and made a part hereof as though fully set forth herein.
5. That a public hearing on this proposed annexation is set for March 21, 2006 at 9:00 a.m., in the Chambers of the Board of Supervisors, County Government Center, San Luis Obispo, California, for the purpose of receiving arguments for and against the proposed annexation.
6. That the Clerk of the Board is directed to publish notice of said hearing to the property owners in the proposed annexation area in accordance with section 6066 of the California Government code.

Upon motion of Supervisor \_\_\_\_\_, seconded by Supervisor \_\_\_\_\_, and on the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

the foregoing Resolution is hereby adopted.

\_\_\_\_\_  
Chairperson of the Board of Supervisors

ATTEST:

\_\_\_\_\_  
Clerk of the Board of Supervisors

[SEAL]

APPROVED AS TO FORM AND LEGAL EFFECT:

JAMES B. LINDHOLM, JR.

County Counsel

By: \_\_\_\_\_

Deputy County Counsel

Dated: \_\_\_\_\_

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STATE OF CALIFORNIA, }  
County of San Luis Obispo, } ss.

I, \_\_\_\_\_, County Clerk and ex-officio Clerk of the Board of Supervisors of the San Luis Obispo County Flood Control and Water Conservation District, do hereby certify the foregoing to be a full, true and correct copy of an order made by the Board of Supervisors, as the same appears spread upon their minute book.

WITNESS my hand and the seal of said Board of Supervisors, affixed this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

(SEAL)

\_\_\_\_\_  
County Clerk and Ex-Officio Clerk of the Board of Supervisors

By \_\_\_\_\_  
Deputy Clerk.

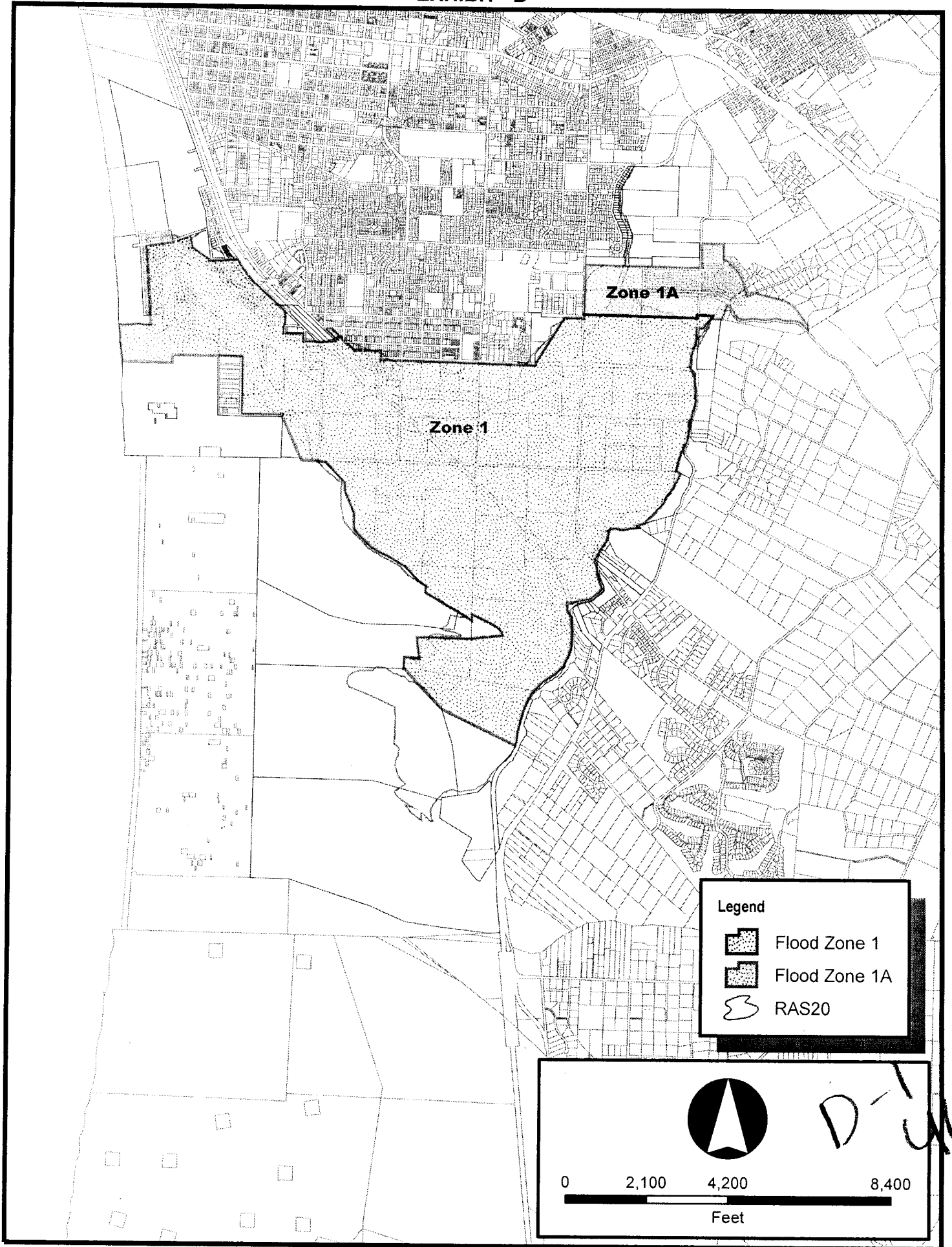
**EXHIBIT "A"****Proposed Parcels for Annexation into San Luis Obispo County Flood Control & Water Conservation District Zone 1 & 1A**

In Accordance With California Water Code Act Section 3.2

APN	ASSESSEE	LEGAL DESCRIPTION
006-087-002	ST JOHNS LUTHERAN CHURCH OF GROVER BEACH	CY AG TR 186 LT 34
061-033-027	HOP PETER & MARY	TR 2130 U27
061-033-030	TARIN ASSARADON	TR 2130 U30
061-033-031	TARIN ASSARADON	TR 2130 U31
061-033-037	TAKEDA JAMES K & MUN C	TR 2130 U37
061-033-038	TAKEDA JAMES K & MUN C	TR 2130 U38
061-033-057	PACIFIC PLAZA RESORT OWNERS ASSOCIATION	TR 2130 LT 1 (COMMON AREA)
061-091-019	STATE OF CALIFORNIA (935)	001.77AC
061-101-014	STATE OF CALIFORNIA (935)	006.02AC VACANT
061-113-030	POUYIOUKKAS MARIOS A	VST DEL ENCANTO PTN BL 7
061-113-039	GASBARRA LARRY S & WAYNETTE C	TR 334 U 9 & PTN COMM AREA
061-113-041	SINCLAIR GABE R	TR 334 U 11 & PTN COMM AREA
061-113-043	HACKLEMAN JOHN & JULIA	TR 334 U 13 & PTN COMM AREA
061-113-044	SALE JEFFREY TRE	TR 334 U 14 & PTN COMM AREA
061-113-045	ODDONE STEVEN & SUSAN	TR 334 U 15 & PTN COMM AREA
061-113-046	CRAWFORD KEVIN T ETAL	TR 334 U 16 & PTN COMM AREA
061-126-012	NHC-CA3 LP A DE LTD PTP	TN OCEANO PTN LTS 32, 33, 34
061-131-004	LATER ROGER D	TN OCEANO BL 11 & PTN ADJ ST
061-134-001	OCEANO PACKING CO A CORP	TN OCEANO BL 30 LTS 7 TO 16
061-134-006	OCEANO PACKING CO	TN OCEANO BL 30 LTS 17 & 18
061-134-009	PHELAN & TAYLOR PROD CO INC	TN OCEANO BL 30 LTS 1 TO 6
061-171-004	GUISTON GLENDA L ETAL	TN OCEANO BL 29
062-083-004	GERMAN JERRY E TRE	TN OCEANO BL 28 LT 22
062-086-020	CATHOLIC CHURCH OCEANO	TN OCEANO LT 19&20 BL 27
062-086-021	CATHOLIC CHURCH OCEANO	TN OCEANO BL 27 LTS 21 TO 23
062-111-001	CHAVEZ ISIDRO G & MARIA P	TN OCEANO BL 35 LTS 10&11
062-111-018	MANKINS HOWARD D TRE ETAL	TN OCEANO BL 35 LT 7 TO 9
062-111-019	MANKINS HOWARD D TRE ETAL	TN OCEANO BL 35 LTS 5 & 6
062-111-022	ANNECCHINI NICHOLAS J TRE ETAL	TN OCEANO BL 35 LTS 3 & 4
062-111-027	JOSEPH JOE T & VICTORIA J	TN OCEANO BL 35 LT 1 & 2
075-141-002	DUNE LAKES LTD	RHO COR DE P ETAL PTN LT 122 & 126
075-261-001	DUNE LAKES LTD	RHO COR DE P ETAL PTN LT 125

D-1  
US

EXHIBIT "B"



## BEFORE THE BOARD OF SUPERVISORS

*of the*

### SAN LUIS OBISPO COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

\_\_\_\_\_ day \_\_\_\_\_, 20\_\_\_\_

PRESENT: Supervisors

ABSENT:

#### RESOLUTION NO.

#### Resolution of the Board of Supervisors of the San Luis Obispo County Flood Control and Water Conservation District (Board)

#### Approval of Findings, Policies and Staff Direction on the Subject of Relinquishing the Arroyo Grande and Los Berros Creek Levees to the California Department of Water Resources including a Contract Amendment with The Natural Resources Conservation Service and the Coastal San Luis Resource Conservation District

The following Resolution is now offered and read:

**WHEREAS**, the following recitals are considered relating the subject of relinquishing the Arroyo Grande and Los Berros Creek Levees (Structures) to the California Department of Water Resources:

#### BACKGROUND

1. The Federal Government of the United States of America constructed the Arroyo Grande and Los Berros Creek levees (Structures) as a result of recommendations included in watershed work plans in 1955, 1956, and 1957.
2. The Board of Supervisors (Board) of the San Luis Obispo County Flood Control and Water Conservation District (District) formed Zones 1 and 1A for purposes including maintaining the Structures pursuant to an Agreement entitled "Watershed Protection Operations and Maintenance Agreement" dated May 15, 1959 (The 1959 Agreement) with the Federal Natural Resources Conservation Service (NRCS), which was formerly known as Soil Conservation Service of the United States Department of Agriculture and the Coastal San Luis Resource Conservation District (RCD), which was formerly known as Arroyo Grande Soil Conservation District.
3. In decades subsequent to the execution of The 1959 Agreement, changes in social values regarding conservation of wildlife and natural habitat that are inconsistent with previous concerns for "reclamation" for farming, resulted in new laws and regulations that impaired the intended benefits of The 1959 Agreement.
4. Said laws and regulations include, but are not necessarily limited to, those adopted by the Federal Government of the United States of America subsequent to the execution of The 1959 Agreement and which directly impair the District's ability to maintain the Structures, including "removal of silt and other debris and vegetation from the channel bottom" and "maintaining rock riprap to essentially originally constructed dimensions" which are needed, based on physical inspections, to maintain the capacity of the Structures as provided in The 1959 Agreement.

D-1  
4

5. Said laws and regulations also include, but are not necessarily limited to, those adopted and/or enacted by the State of California subsequent to the execution of The 1959 Agreement and which directly impair the District's ability to levy local taxes to fund its maintenance obligation pursuant to the terms of The 1959 Agreement.
6. Said impairment was evidenced in March 2001 when the Structures failed and floodwaters created property damage.
7. On April 1, 2003 the Board adopted Resolution No. 2003-105 relinquishing the maintenance responsibility for the Structures to the California Department of Water Resources in response to the aforementioned and numerous other challenges resulting from laws and regulations adopted after The 1959 Agreement that have proven to significantly, and may someday completely, impair the District's ability to meet its contractual responsibilities as established in The 1959 Agreement.

**SUMMER 2005  
A REQUEST FOR TIME TO DEVELOP  
A LOCAL SOLUTION**

8. The California Department of Water Resources (DWR) was preparing to initiate maintenance efforts for the Structures in July 2005 in accordance with Board Resolution No. 2003-105.
9. On June 14, 2005 your Board received a petition (Petition), which is fully incorporated into the Board's public record of your June 14th meeting and incorporated herein by reference as though fully set forth, signed by 756 individuals (Community Coalition) requesting a one year delay in the relinquishment of the District's Zone 1/1A maintenance responsibilities to DWR.
10. Representatives of the District's Zone 1/1A Advisory Committee, its Task Force, NRCS and the RCD have provided important resources in developing the Community Coalition and garnering support for a local solution (Local Solution) as an alternative to relinquishing the Structures to DWR.
11. The Board was compelled by the Petition and the testimonies of representatives of the Committee, its Task Force, the NRCS and RCD and other members of the public and property owners on June 14, 2005 and adopted Resolution No. 2005-183 on June 28, 2005 delaying the relinquishment to DWR until July 1, 2006.

**THE LOCAL SOLUTION – WORK IN PROGRESS**

12. Since June 14, 2005 several important efforts have been undertaken to develop a Local Solution which include but are not limited to the following:
  - a. Numerous meetings with the Zone 1/1A Advisory Committee, Task Force, RCD, NRCS, representatives of Federal and State legislators, and other affected public and property owners with vested interest in the functioning capabilities of the Structures.
  - b. Preparation of a "Arroyo Grande Creek Erosion, Sedimentation and Flooding Alternatives Study" by Swanson Hydrology and Geomorphology (Swanson Study) for the RCD.
  - c. Preparation of a draft assessment engineers report by Cannon Associates.
  - d. Other numerous actions of affected agencies, their elected officials, staff and other representatives.
13. The results of these important efforts include the development of a recommendation by the Zone 1/1A Advisory Committee to annex parcels of real property to Zone 1 of the District that better represents the area of special benefit resulting from maintenance of the Structures.
14. The results of the recent important efforts also include the development of a recommendation by the Zone 1/1A Advisory Committee to increase annual



assessments in Zones 1 and 1A, after the annexation of proposed parcels, by a combined total of \$350,000 annually in fiscal year 2006-07, and which may annually increase thereafter by a rate not to exceed 3%.

15. Staff and representatives of the NRCS and RCD have expressed concurrence with the recommendations of the Zone 1/1A Advisory Committee.

### **FISCAL CONSIDERATIONS**

16. Evaluation of the cost and benefits of alternative Local Solutions identified in the Swanson Study creates a common understanding by and between the Committee, the Task Force, the RCD, the NRCS and the District that the proposal to increase annual assessments on parcels within Zones 1 and 1A will be insufficient to meet the long-term requirements associated with the Structures.
17. Said evaluation and conclusions also create a common understanding between the Committee, the Task Force, the RCD, the NRCS and the District that other significant efforts will be needed beyond those that can be afforded by the existing and proposed revenues of Zones 1 and 1A and will therefore need to be pursued utilizing other means and resources.
18. Said other important means and resources should include: a) a Memorandum of Understanding (MOU) between the other affected agencies and responsible organizations, and other persons and/or property owners, to complete the development a long term viable Local Solution; and b) Federal and State Grants.
19. The District is willing to participate in the development of a MOU while recognizing that the District is still solely responsible to meet its obligation to maintain the Structures in accordance with The 1959 Agreement.
20. All of the efforts identified in the Swanson Study that are needed to assure the long-term functioning capabilities of the Structures are beyond those that are the sole cost and responsibility of the property owners within Zone 1 and 1A and the District under The 1959 Agreement for reasons that include, but are not limited to, those articulated in this Resolution.

### **SEEKING ASSISTANCE**

21. In addition to the District's responsibilities under The 1959 Agreement, the RCD and NRCS also have responsibilities expressed in The 1959 Agreement.
22. The responsibilities of the NRCS include but are not limited to those of the NRCS that require technical assistance in certain cases but only if NRCS has available resources.
23. If the District does not relinquish the Structures to DWR, environmental review will be required for a Local Solution to comply with Federal legislation passed after the execution of The 1959 Agreement.
24. Conclusions on said environmental review will only be known after the Board must decide on whether to relinquish the Structures to DWR.
25. The ability to fund the cost of federally required environmental review, from existing local taxation and property assessments collected from parcels within Zones 1 & 1A, is not foreseeable.
26. The funding of said costs from the proposed increase in property assessments will decrease the ability to utilize those assessments for other direct maintenance activities that do not require significant environmental review (and which would ideally be occurring concurrent with the more significant environmental review efforts).
27. It is reasonable to request the Federal Government of the United States of America, as allowable under the terms of The 1959 Agreement, to allocate and budget sufficient resources to provide for that level of technical consultation which will fully and completely prepare reports and other documents, and which will lead, coordinate and

D-1  
40

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support meetings, forums and public communication to meet all environmental requirements resulting from said passage of federal laws and regulations and which are needed for a Local Solution.

28. The importance of compliance with such legislation adopted by Congress of the United States of America is without question
29. In addition, the need for federal and state grant revenues exists to mitigate the impact that legislation has had on the functioning capabilities of the Structures and the need to make improvements to the Structures to restore its flow capabilities to that which is more consistent with its original design plus, ideally, other needed improvements, all of which are outside the responsibilities of the District pursuant to The 1959 Agreement and the obligation of Zone 1/1A property owners to fund.

**AMENDING THE 1959 AGREEMENT TO ALIGN  
WITH CURRENT LAWS AND REGULATIONS**

30. It is also important that the terms and conditions of The 1959 Agreement be amended for consistency with existing laws and regulations.
31. The original 1959 Agreement is attached as Exhibit "A" together with a "marked up" version of those terms of The 1959 Agreement that require amendment to be consistent with existing laws and regulations.
32. A proposed amendment to The 1959 Agreement for your Board to approve has been prepared and attached hereto as Exhibit "B" to create consistency between current federal and state laws and regulations with The 1959 Agreement.
33. Said proposed amendment will improve the long term viability of a Local Solution because current federal laws and regulations substantially and nearly completely determine the manner in which the Structures may be maintained. The language in The 1959 Agreement requiring approval of some of the District's maintenance activities by NRCS and RCD has been, in substance, superseded by the United States Congress.
34. The affects of United States Congressional action that impair the District's ability to comply with The 1959 Agreement should not create a risk to the services and funding of those local taxpayers outside of the boundaries of Zone 1 & 1A.
35. The need also exists for consistency between The 1959 Agreement and laws and regulations of the State of California.
36. The California State Constitution, Article XIII(D) established the right for property owners within Zones 1 & 1A to vote on whether to authorize the District Board to increase property assessments recommended to pay the costs of the Structures' maintenance.
37. Said property owner right to vote on property assessments concurrently establishes the right to determine the level of service that property owners' desire pertaining to the maintenance of the Structures.
38. The 1959 Agreement should also be consistent with that property owner right to determine levels of service, as established in the Constitution of the State of California.
39. The proposed amendments to The 1959 Agreement provides greater consistency with the California Constitution because the amendments support the Zone 1 & 1A property owners' right to determine the levels of service that provide the special benefits to them as a result of maintaining the Structures, while complying with environmental and other laws and regulations.

D-1  
50



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#### APPRECIATION FOR NRCS/RCD

40. The contract amendments are meant in no way to diminish the invaluable service and efforts of staff and other representatives of the NRCS and RCD.
41. The commitment of the staff and representatives of NRCS and RCD shall continue to be important in determining the details of a Local Solution, as reflected in the attached amendments to The 1959 Agreement.
42. Said contract amendments have therefore been developed to align The 1959 Agreement with existing federal and state laws and regulations while recognizing the important, valuable and dedicated service of the staff and representatives of the NRCS and the RCD and the hopes for a long-lasting and mutually beneficial relationship with the District, or any successor agency to Zones 1 & 1A, if any is established in the future.
43. While NRCS and RCD consider whether to approve said proposed contract amendments to The 1959 Agreement, it is the District's hope that the NRCS and RCD consider the following:
  - a. Changes in laws and regulations as well as changes in the Constitution of the State of California since the execution of The 1959 Agreement.
  - b. Their support that the District not relinquish the Structures to DWR in favor of a Local Solution while recognizing that said Local Solution is not fully known at this time, nor will it be fully known before July 1, 2006
  - c. That the adverse exposure to liability or to other diminished services to taxpayers outside of the boundaries of Zone 1 and 1A was never an intent of The 1959 Agreement.
44. It is the sincerest intent of the Board that the District will continue to work cooperatively with the NRCS and RCD staff and representatives, the Zone 1 & 1A Advisory Committee, its Task Force, the Community Coalition, and other members of the public and property owners in seeking a long term viable Local Solution.

**NOW THEREFORE BE IT RESOLVED** by the Board of Supervisors of the San Luis Obispo County Flood Control and Water Conservation District that:

1. The foregoing recitals are true, correct and valid findings of both law as well as with respect to federal, state and local public policy.
2. That Exhibit "B", the attached contract amendment to The 1959 Agreement with the NRCS and RCD, is hereby approved, and that the Chairman of the Board is directed to execute and cause said amendment to be delivered to NRCS and RCD.
3. That the Director of Public Works is directed to request technical assistance from NRCS consistent with this Resolution.
4. That the Director of Public Works is authorized to apply for federal and state grants for the Structures.
5. The direction of the Board established on June 14, 2005 and June 28, 2005 continues.

D-1  
52

Upon motion of Supervisor \_\_\_\_\_, seconded by Supervisor \_\_\_\_\_, and on the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

the foregoing Resolution is hereby adopted.

\_\_\_\_\_  
Chairperson of the Board of Supervisors

ATTEST:

\_\_\_\_\_  
Clerk of the Board of Supervisors

[SEAL]

APPROVED AS TO FORM AND LEGAL EFFECT:

JAMES B. LINDHOLM, JR.

County Counsel

By:   
Deputy County Counsel

Dated: 2/16/06

L:\MANAGMNT\FEB06\BOS\02282006 BOS Zone 1 1A RSL.doc.lnd.pao

STATE OF CALIFORNIA, }  
County of San Luis Obispo, } ss.

I, \_\_\_\_\_, County Clerk and ex-officio Clerk of the Board of Supervisors of the San Luis Obispo County Flood Control and Water Conservation District, do hereby certify the foregoing to be a full, true and correct copy of an order made by the Board of Supervisors, as the same appears spread upon their minute book.

WITNESS my hand and the seal of said Board of Supervisors, affixed this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

(SEAL)

\_\_\_\_\_  
County Clerk and Ex-Officio Clerk of the Board of Supervisors

By \_\_\_\_\_  
Deputy Clerk.

*[Handwritten initials: D-1, 52]*

EXHIBIT A

WATERSHED PROTECTION  
OPERATION AND MAINTENANCE AGREEMENT  
FOR  
ARROYO GRANDE CREEK CHANNEL AND LOS BERROS CREEK DIVERSION IMPROVEMENTS  
(ARROYO GRANDE CREEK WATERSHED)

THIS AGREEMENT, made and entered into this 15th day of May, 1959 by and between the Soil Conservation Service, hereinafter referred to as the "Service", the ARROYO GRANDE SOIL CONSERVATION DISTRICT and the SAN LUIS OBISPO COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT (Zone 1), hereinafter referred to as the "Sponsoring Local Organizations", relates to the operation and maintenance of the following described works of improvement:

The Arroyo Grande Channel and appurtenances from the Pacific Ocean upstream for a distance of 2.84 miles, and the Los Berros Creek Diversion and appurtenances along an easterly line, for a distance of 0.59 miles, from the Arroyo Grande Creek Channel to a point where the existing Los Berros Creek Channel emerges from the hills, as described in the "Watershed Work Plan ARROYO GRANDE CREEK", San Luis Obispo County, California.

This Agreement cancels and supersedes OPERATION AND MAINTENANCE AGREEMENT NO. 12-10-040-84 executed by and between the parties hereto on the 15th day of March, 1957.

The estimated annual cost for operating and maintaining the works of improvement herein described is \$5,051.00, based on present construction costs.

1. OPERATION AND MAINTENANCE

The parties hereto agree as follows to the operation and maintenance of the above described works of improvement:

A. The Service will:

1. Provide, through the Sponsoring Local Organizations, such technical services as are available for assistance in the proper operation of the works of improvement by:
  - (a) Furnishing technical assistance to aid in making onsite inspections of the above-described works of improvement.
  - (b) Furnishing technical consultation necessary for the operation and maintenance program.
2. Inspect the described works of improvement at least annually.

3. After consultation with Sponsoring Local Organizations and mutual agreement by all parties hereto, prepare a report of inspection findings, recommending maintenance work needed, and indicating when such work should be completed. A copy of the report will be furnished to each of the Sponsoring Local Organizations.
- B. The Sponsoring Local Organization (San Luis Obispo County Flood Control and Water Conservation District, Zone 1) will:
1. Be responsible for operation and maintenance simultaneously with acceptance of the work from the contractors.
  2. Take all necessary steps to insure that the structures are permitted to function in the manner for which they were designed.
  3. Make an annual on-the-site inspection during the months of July or August or more frequently as may be required, and will determine action necessary to maintain the channel to its constructed capacity. This maintenance may include removal of silt and other debris and vegetation from the channel bottom, trimming or replacing protective vegetation on the channel banks, maintaining dike height and width, control of rodents along the dikes, and the maintaining rock riprap to essentially originally constructed dimensions.

Equipment and materials normally required for the operation and maintenance are:

Tractor, and carryall, power shovel and dump trucks; rock for replenishing riprap, planting materials and fertilizers.

Operation and maintenance work will be accomplished by contract and/or by force account.

Operation and maintenance funds will be provided from local taxation.

4. Perform all maintenance needs as mutually agreed to by the parties hereto within the time limits specified and in such manner as not to damage the structures in any way. Maintenance may include, but not be limited to, the following:
  - (a) Remove and burn debris.
  - (b) Refill, smooth and vegetate rilling on embankments, spillways and drainage ways.
  - (c) Realign disposal channel where needed.
  - (d) Repair damaged riprap or other works.

(e) Repair fences and gates where needed.

(f) Complete other maintenance work as may be mutually agreed to in the inspection reports.

5. Prepare a report for each inspection performed and furnish one copy to the Service. Maintain a record of all maintenance work performed and make such records available for review by the Service.

C. The Sponsoring Local Organization (Arroyo Grande Soil Conservation District) will:

1. Coordinate inspections to be made by the San Luis Obispo County Flood Control and Water Conservation District (Zone 1) and the Service, and will participate in these inspections.

## II. IT IS MUTUALLY AGREED THAT:

A. Government representatives shall have the right of free access to inspect the Works of Improvement at any time.

B. Whenever possible the parties to this agreement will make their annual inspections jointly in accordance with paragraph B 3 above. Any supplemental inspections then determined necessary will be scheduled and agreed to at that time.

C. The Sponsoring Local Organizations will secure prior Service approval of any agreements that may be entered into with other parties for any operation or maintenance of these Works of Improvement and furnish the Service with copies of such agreements. The Sponsoring Local Organization will also notify in writing the party assuming operation or maintenance responsibilities under the agreement and provide the Service with three copies of such notification.

No Member of or Delegate to Congress, or Resident Commissioner shall be admitted to any share or part of this agreement or to any benefit to arise therefrom. This provision shall not be construed to extend to this Agreement if made with a corporation for its general benefit.

ARROYO GRANDE SOIL CONSERVATION DISTRICT  
(Sponsoring Local Organization)

By/s/ EDWIN M. TAYLOR

Title President, Board of Directors

Date April 21, 1959



This action was authorized at an official meeting of Arroyo Grande Soil Conservation District on the 21st day of April, 1959, at Arroyo Grande, State of California

Attest: /s/ KEITH A. RAPP

Title Secretary

Approved as to Form

SAN LUIS OBISPO COUNTY FLOOD CONTROL  
AND WATER CONSERVATION DISTRICT (Zone I)  
(Sponsoring Local Organization)

/s/ PAUL W. DAVIS

District Attorney  
County of San Luis Obispo,  
California

By /s/ M. ROLAND GATES

Title Chairman, Board of Supervisors

Date April 27, 1959

Dated: April 23, 1959

This action was authorized at an official meeting of San Luis Obispo County Flood Control and Water Conservation District (Zone 1) on 27th day of April, 1959, at San Luis Obispo, State of California.

Attest: /s/ A. E. MALLAGH

County Clerk and Ex-Officio  
Clerk Board of Supervisors  
County of San Luis Obispo,

Title State of California

UNITED STATES DEPARTMENT OF AGRICULTURE  
SOIL CONSERVATION SERVICE

By \_\_\_\_\_

Title State Conservationist

Date May 15, 1959

2006 Amendment to  
Watershed Protection Operation and Maintenance Agreement (Agreement)  
for  
Arroyo Grande Creek Channel and Los Berros Creek Diversion Improvements  
(Arroyo Grande Creek Watershed)

This amendment to the Agreement, originally dated the 15<sup>th</sup> day of May, 1959, is by and between the Natural Resources Conservation Service, known formerly as the Soil Conservation Service in the Agreement and still referred to as "Service", the Coastal San Luis Resource Conservation District, known formerly as the Arroyo Grande Soil Conservation District, and the San Luis Obispo County Flood Control and Water Conservation District (Zones 1 and 1A).

This amendment replaces the following terms of the Agreement in their entirety.

- I. B. 3. Make an annual on-the-site inspection during the months of July or August or more frequently as may be required, and will determine action necessary to maintain the channel to its constructed capacity. This maintenance may include removal of silt and other debris and vegetation from the channel bottom, trimming or replacing protective vegetation on the channel banks, maintaining dike height and width, control of rodents along the dikes, and the maintaining rock riprap to essentially originally constructed dimensions.

Equipment and materials normally required for the operation and maintenance are:

Tractor, and carryall, power shovel and dump trucks; rock for replenishing riprap, planting materials and fertilizers.

Operation and maintenance work will be accomplished by contract and/or by force account.

~~Operation and maintenance funds will be provided from local taxation.~~  
The cost of administering this Agreement and performance of all work hereunder shall be funded solely from property taxes allocated to Zones 1 and 1A of the District together with assessments and special taxes authorized for said zones.

- I. B. 4. Perform all maintenance needs ~~as mutually agreed to by the parties hereto within the time limits specified and in such manner as not to damage the structures in any way~~ in a manner consistent with any state and federal permits. Maintenance may include, but not be limited to, the following:
- (a) Remove and burn debris.
  - (b) Refill, smooth and vegetate rilling on embankments, spillways and drainage ways.
  - (c) Realign disposal channel where needed.
  - (d) Repair damaged riprap or other works.
  - (e) Repair fences and gates where needed.
  - (f) Complete other maintenance work as may be mutually agreed to in the inspection reports.
- II. C. The Sponsoring Local Organizations will ~~secure prior~~ make reasonable efforts to meet and confer with the Service approval of any agreements that may be entered into by the District with other parties for any operation or maintenance of these Works of Improvement and furnish the Service with copies of such agreements. The Sponsoring Local Organization will also notify in writing the party assuming operation or maintenance responsibilities under the agreement and provide the Service with three copies of such notification.

D-1  
59

EXHIBIT B  
2006 Amendment to  
Watershed Protection Operation and Maintenance Agreement (Agreement)  
for  
Arroyo Grande Creek Channel and Los Berros Creek Diversion Improvements  
(Arroyo Grande Creek Watershed)

This amendment to the Agreement, originally dated the 15<sup>th</sup> day of May, 1959, is by and between the Natural Resources Conservation Service, known formerly as the Soil Conservation Service in the Agreement and still referred to as "Service", the Coastal San Luis Resource Conservation District, known formerly as the Arroyo Grande Soil Conservation District, and the San Luis Obispo County Flood Control and Water Conservation District (Zones 1 and 1A).

This amendment replaces the following terms of the Agreement in their entirety.

- I. B. 3.        Make an annual on-the-site inspection during the months of July or August or more frequently as may be required, and will determine action necessary to maintain the channel to its constructed capacity. This maintenance may include removal of silt and other debris and vegetation from the channel bottom, trimming or replacing protective vegetation on the channel banks, maintaining dike height and width, control of rodents along the dikes, and the maintaining rock riprap to essentially originally constructed dimensions.

Equipment and materials normally required for the operation and maintenance are:

Tractor, and carryall, power shovel and dump trucks; rock for replenishing riprap, planting materials and fertilizers.

Operation and maintenance work will be accomplished by contract and/or by force account.

The cost of administering this Agreement and performance of all work hereunder shall be funded solely from property taxes allocated to Zones 1 and 1A of the District together with assessments and special taxes authorized for said zones.

D-1  
60

## EXHIBIT B

- I. B. 4. Perform all maintenance needs in a manner consistent with any state and federal permits. Maintenance may include, but not be limited to, the following:
- (a) Remove and burn debris.
  - (b) Refill, smooth and vegetate rilling on embankments, spillways and drainage ways.
  - (c) Realign disposal channel where needed.
  - (d) Repair damaged riprap or other works.
  - (e) Repair fences and gates where needed.
  - (f) Complete other maintenance work as may be mutually agreed to in the inspection reports.
- II. C. The Sponsoring Local Organizations will make reasonable efforts to meet and confer with the Service on any agreements that may be entered into by the District with other parties for any operation or maintenance of these Works of Improvement and furnish the Service with copies of such agreements. The Sponsoring Local Organization will also notify in writing the party assuming operation or maintenance responsibilities under the agreement and provide the Service with three copies of such notification.

b-1  
61

EXHIBIT B

**IN WITNESS THEREOF**, the parties hereto have executed this Amendment, and this Amendment shall become effective on the date executed by all parties.

SAN LUIS OBISPO COUNTY FLOOD  
CONTROL AND WATER CONSERVATION  
DISTRICT (ZONES 1&1A)

Date: \_\_\_\_\_, 20\_\_

By: \_\_\_\_\_  
Chairperson of the Board of Supervisors  
of the San Luis Obispo County Flood Control  
and Water Conservation District,  
State of California

**ATTEST:**

\_\_\_\_\_  
County Clerk and Ex-Officio Clerk of the  
Board of Supervisors, San Luis Obispo County  
Flood Control and Water Conservation District,  
State of California

Date: \_\_\_\_\_, 20\_\_

NATURAL RESOURCES CONSERVATION  
SERVICE

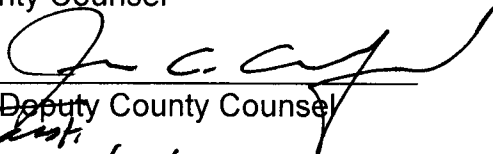
Date: \_\_\_\_\_, 20\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

**APPROVED AS TO FORM  
AND LEGAL EFFECT:**

JAMES B. LINDHOLM, JR.  
County Counsel

By:   
Deputy County Counsel

Date: 2/16/06

**ATTEST:**

By: \_\_\_\_\_

Title: \_\_\_\_\_

COASTAL SAN LUIS RESOURCE  
CONSERVATION DISTRICT

By: \_\_\_\_\_

Title: \_\_\_\_\_

**ATTEST:**

By: \_\_\_\_\_

Title: \_\_\_\_\_

D-1  
62